

TITLE 7
HEALTH AND SANITATION

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**CHAPTER 7-01
HEALTH REGULATIONS**

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SECTION 7-01-001-0001 PREMISES TO BE CLEAN:

The occupant or the owner, lessee, agent other person conducting, operating, controlling or managing any dwelling, apartment house, hotel or house court shall thoroughly clean all the rooms, passages, floors, windows, doors, walls, ceilings, water closets, privies, cesspools and drains of the building or any other portion of the building, the premises, the yards and all of the lots and surrounding property, of which he is the owner or agent, or which he conducts, operates, controls, manages or occupies to the satisfaction of the Health Officer, as often as he shall be required, and before reoccupying the building. The premises, surroundings, the buildings and all portions thereof shall be maintained in a clean and sanitary condition at all times. (Ord. 768, 3-24-70)

SECTION 7-01-001-0002 RUNNING WATER:

- A. Every apartment house, hotel, house court or dwelling shall be provided with fresh running water where running water is available, on each floor at one or more places for the convenience and use of the occupants thereof. A failure in the general supply of water from the City shall not be construed to be a failure to provide such water as herein required if proper and suitable appliances to receive and distribute such water are placed as required in this Section.
- B. In every building or portion thereof used for hotel purposes, there shall be provided on each floor at one or more places accessible from the public hallway, a slop sink which shall be connected to a public sewer, cesspool or septic tank and trapped, vented and provided with running water.
- C. In every kitchen in an apartment house, house court or dwelling there shall be provided a sink with running water, connected to a public sewer, cesspool or septic tank and properly trapped and vented.

SECTION 7-01-001-0003 TOILETS:

Every apartment house, hotel, house court or dwelling shall be provided with toilet facilities. The toilet shall be located conveniently and shall be

connected to a public sewer, cesspool or septic tank, and properly trapped and drained.

SECTION 7-01-001-0004 BEDS, LIGHTING AND VENTILATION:

The beds in all apartment houses or hotels and in any room or apartment in which beds are occupied, let or hired for lodgers shall be separated from each other by a passageway or space of not less than three feet (3') horizontally, and all such beds shall be so arranged that the air shall freely circulate under each of them, and there shall be adequate ventilation. When one bed is placed above another, there shall be a space between such beds of not less than four feet (4') clear.

There shall be provided an adequate number of windows to provide sufficient light, not less than seven and one-half percent (7 1/2%) of the floor area.

Windows shall be constructed so that they may be opened for the purpose of ventilation.

SECTION 7-01-001-0005 SCREENING:

For the purpose of health, proper sanitation or cleanliness, there shall be provided and maintained in good repair, metal mosquito screening of at least sixteen (16) mesh, set in tight fitting, removable sash, for each door, window or other opening in the exterior walls of any building used or occupied for living, sleeping or residential purposes.

SECTION 7-01-001-0006 FLOORS, WALLS AND CEILINGS:

Floors, walls and ceilings shall be constructed of solid material. They shall be kept clean and in good repair. Floors of porches, stairways and steps shall be constructed of solid material and kept in good repair.

SECTION 7-01-001-0007 ROOF:

The roof shall be constructed of solid material and kept in good repair. It shall be free from leaks.

SECTION 7-01-001-0008 GARBAGE DISPOSAL AND GENERAL SANITATION:

Garbage shall be collected and stored in water tight containers having tight fitting lids.

The premises of every apartment house, hotel, house court or dwelling shall be kept clean and neat.

SECTION 7-01-001-0009 NEW STRUCTURES:

It shall be unlawful for any person or persons to erect or install any new dwelling unit which does not conform to the provisions of this Chapter.

SECTION 7-01-001-0010 PERMITS:

It shall be unlawful for any owner, lessee or other person conducting, operating, controlling or managing any apartment house, rooming house, hotel, house court or dwelling to permit the premises to be reoccupied without first securing a permit therefor. Any person desiring such a permit shall make application to the Health Authority and shall pay therefor to the City, through the said Health Authority, the sum of one dollar (\$1.00).

SECTION 7-01-001-0011 INSPECTIONS:

Upon such application being made, the Health Authority shall thereupon inspect said premises and a permit shall be granted providing the provisions of this Chapter have been complied with.

In case of hotels, rooming houses and house courts, inspection shall be made as often as deemed necessary by the Health Authority, and permits shall be issued on an annual basis, said permit to be subject to revocation at any time for failure to comply with the provisions of this Chapter.

No person shall deny entrance to the inspector or in any way interfere with the inspection of any of the abovementioned dwelling units. (Ord. 347, 7-8-46)

CHAPTER 7-02
WASTEWATER REGULATIONS

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SECTION 7-02-001-0001 DIVISION CREATED:

There is hereby created a Wastewater Services Division, to be under the supervision and control of the Director of Utilities ("Director"). The Director shall be charged with the care, operation and maintenance of the wastewater treatment and collection systems, and shall be responsible for the enforcement of all provisions contained in this Chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

(Ord. 2002-08, Amended, 07/16/2002)

SECTION 7-02-001-0002 APPOINTMENT OF DIRECTOR OF UTILITIES:

For the proper administration of the water and wastewater services facilities, there shall be appointed by the City Manager a Director of Utilities.

SECTION 7-02-001-0003 PURPOSE AND POLICY

These Wastewater Regulations set forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Flagstaff, Arizona ("City"), and enable the City to comply with all applicable State and Federal laws, including the CWA (33 United States Code §§1251 et seq.) and the General Pretreatment Regulations (Title 40, Code of Federal Regulations, Part 403). The objectives of these Wastewater Regulations are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with their operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW without adequate treatment, into receiving waters, or that will otherwise be incompatible with the POTW;
- C. To protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- F. To enable the City to comply with its National Pollutant Discharge Elimination System Permit conditions, its sludge use and disposal requirements, and any other Federal or State laws to which the City's POTW is, or may become, subject. These Wastewater Regulations shall apply to all users of the City's POTW, and shall authorize the issuance of wastewater discharge permits; provide for effective monitoring, compliance, and enforcement procedures; establish administrative review procedures; establish user monitoring and reporting requirements; provide for the setting of fee rates and surcharges for the equitable distribution of costs resulting from the proper maintenance and operation of the City's POTW; and provide for the assessment of civil and criminal penalties for Wastewater Regulation violations.

(Ord. 2002-08, Add, 07/16/2002)

SECTION 7-02-001-0004 DEFINITIONS:

For the purpose of this Chapter, the following words and terms shall have the following meanings, unless the context indicates otherwise:

ADEQ OR DEQ: The Arizona Department of Environmental Quality. (Ord. 1950, 08/05/97)

APPROVED LABORATORY PROCEDURES: The measurements, tests and analysis of the characteristics of water and wastes in accordance with analytical procedures as established in title 40, Code of Federal Regulations, Part 136 as revised.

AVERAGE QUALITY: The arithmetic average (weighted by flow value) of all the "daily determinations of concentration", as that term is defined herein, made during a calendar month.

BOD (biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty degrees (20o) centigrade, expressed in milligrams per liter.

BRANCH SEWER: An arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.

BUILDING CONNECTION: The connection to the public sewer and extension therefrom of the sewer to the property line in an alley or street, or to the easement line in an easement, whichever is applicable, depending on the location of the public sewer. (Ord. 1681, 12/4/90)

BUILDING OFFICIAL: The Chief Building Inspector, or authorized representative. (Ord. 1723, 4/7/92)

BUILDING SEWER: The service line from the building to the sewer main.

BYPASS: The intentional diversion of wastestreams from any portion of an Industrial User's facility

CATEGORICAL STANDARD: Limits for pollutants that are set by the EPA for individual types of industry listed in 40 CFR 403.

CFR: The Code of Federal Regulations, as amended.

CITY: City of Flagstaff. (Ord. 1104, 12-4-79)

CLEAN WATER ACT: The Federal Water Pollution Control Act., Public Law No. 92-500, § 2, 86 Stat. 816, as amended, also known as the "Clean Water Act," codified at 33 U.S.C. §§ 1251 - 1387. (Ord. 1950, 08/05/97)

COD (Chemical Oxygen Demand): The quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

COLLECTION SYSTEM: Any and all lines, manholes, or other mechanical or physical appurtenances which may be involved with the conveyance of wastewater to or from the City Wastewater Treatment Plant(s).

COMMISSION: A commission established by the City Council to review and make recommendations on the water and wastewater systems.

COOLING WATER: The clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling, or refrigeration.

DAILY COMPOSITE SAMPLE: A sample of effluent, discharge or other source of pollutants continuously collected, manually or automatically, over a normal operating day. Samples should be collected over at least an 8 hour period during production, but preferably over a 24 hour period, with one sample being drawn at least once every two hours. Composites should be flow proportional wherever feasible. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

DAILY DETERMINATION OF WASTEWATER QUALITY: For composite samples, "daily determination of wastewater quality" shall be the concentration of any parameter tested in a daily composite sample. For grab samples, the "daily determination of wastewater quality" shall be the arithmetic average (weighted by flow value) of the concentrations of any parameter in each grab sample obtained in any calendar day.

DEPARTMENT: Utilities Department.

DEVELOPER: Any person engaged in the organizing and financing of a sewage collecting system within an area contributing to a branch, main or a trunk

sewer of the City sewer system. Such may be either a subdivider or a legally constituted improvement district.

DIRECTOR: The Director of the Utilities Department of the City, unless otherwise designated. (Ord. 1950, 08/05/97)

Director of Finance or authorized deputy, agent, or representative shall have the authority to determine and collect all service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees. (Ord. 1723, 4/7/92)

DISCHARGE: The disposal of sewage, water or any liquid from any sewer user into the sewerage system.

DOMESTIC WASTE: A typical, residential-type waste which requires no pretreatment under the provisions of this Chapter before discharging into the sanitary sewer system, excluding all commercial, manufacturing and industrial wastes. (Ord. 1104, 12-4-79)

EFFLUENT: Wastewater or other liquid - raw, partially or completely treated - flowing from a basin, treatment process, or treatment plant.

EPA: United States Environmental Protection Agency. (Ord. 1236, 11-29-82)

GRAB SAMPLE: An individual sample of effluent, discharge or other source of pollutants collected in less than fifteen (15) minutes.

HAZARDOUS DISCHARGE: A discharge which is considered by the City to be an imminent hazard to health, the environment, or the POTW.

INDIRECT DISCHARGE: The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Clean Water Act as amended 33 USC 1251, et seq.

INDUSTRIAL USER: A source of indirect discharge.

INDUSTRIAL WASTE: Any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids excluding uncontaminated water.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT: The permit granted by the City to an industrial user granting the right to discharge to the sewer works subject to the terms and conditions set forth in the permit.

INFLOW: Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm waters, surface runoff, street wash waters or drainage.

INTERFERENCE: Inhibition or disruption of the sewer system, treatment processes or operations which contribute to a violation of any requirement of a national pollutant discharge elimination system permit. The term includes prevention of sewage sludge use or disposal by the cities in accordance with section 405 of the Act, or any criterial guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any

State sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the City.

LATERAL SEWER: A sewer which discharges into a branch or other sewer and has no other common tributary to it.

MAIN SEWER: A sewer which receives sewage from one or more branch sewers as tributaries.

MAINTENANCE: Keeping the treatment works in a state of repair, including expenditures necessary to maintain the capacity (capability) for which said works were designed and constructed. (Ord. 1950, 08/05/97)

NATURAL OUTLET: Any outlet into a watercourse, ditch, or other body of surface or ground water.

NPDES PERMIT: The permit or permits issued to and held by the City under the National Pollutant Discharge Elimination System, pursuant to 33 U.S.C. § 1342 and 40 CFR Parts 122 through 125. (Ord. 1950, 08/05/97)

PARAMETER: See "TREATMENT PARAMETER".

PASS THROUGH: An effluent flow which exits the POTW in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERMITTEE, PERMIT HOLDER: Any person, firm, association, corporation or trust which owns, operates, possesses or controls an establishment or plant being operated under a valid industrial waste permit to discharge waste into the City sewer system.

pH: The logarithm of reciprocal of the weight of hydrogen ions in grams per liter of solution.

POTW: Publicly owned treatment works.

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW, as further defined and described in 40 CFR 403.3(q). (Ord. 1950, 08/05/97)

PRETREATMENT STANDARDS or PRETREATMENT REQUIREMENTS: Any substantive or procedural requirements relating to pretreatment, including the specific pollutant limits set forth in Section 0010 of this Chapter. (Ord. 1950, 08/05/97)

PUBLIC SEWER: A lateral, branch, main or trunk sewer controlled and maintained by the City of Flagstaff. (Ord. 1236, 11-29-82)

RECLAIMED WASTEWATER: The treated effluent which is the product of the Municipal wastewater system, which although not suitable for human consumption, may be used for certain industrial or commercial purposes. (Ord. 1723, 4/7/92)

REPLACEMENT: Those expenditures made for obtaining and installing equipment, accessories and/or appurtenances during the useful life of the treatment works

which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.

REPRESENTATIVE SAMPLE: A sample which takes a portion of the user's discharge which will be indicative of all the constituents of the discharge.

SANITARY SEWER: A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which caused them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE/SEWERAGE: A combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT: Any arrangement of devices and structures used for treating sewage.

SEWER: A pipe or conduit for carrying sewage.

SEWER TAP: Includes hole cut into main line and saddle to which to connect. (Ord. 1681, 12/4/90)

SLUG LOAD: Any pollutant discharged in quantities large enough to cause interference, upset, or pass-through at the POTW.

STANDARD INDUSTRIAL CLASSIFICATION (SIC): A coded classification of industries based upon economic activity developed by the U.S. Department of Commerce as published in the Standard Industrial Classification Manual, 1987, Office of Management and Budget.

STANDARD METHODS: The procedure as described in the most current edition of Standard Methods for the Examination of Water and Wastewater published by the American Health Association, or the most current edition of Manual of Methods for Chemical Analysis of Water and Wastes published by the U. S. Environmental Protection Agency.

STORM SEWER or STORM DRAIN: A sewer which carries storm and surface waters and STORM DRAIN: drainage, but excludes sewage and polluted industrial wastes.

SURCHARGE: An additional charge levied against Industrial Users for exceeding certain thresholds of BOD or TSS, as described in § 0038.H and set forth in § 0039.A of this Chapter. (Ord. 1950, 08/05/97)

SUSPENDED SOLIDS (SS): Solids measured in milligrams per liter that either float on the surface of or are in suspension in water, wastewater or other liquids and which are largely removable by a laboratory filtration device, as defined in the "Standard Methods" as defined herein.

SYSTEM DESIGN CAPACITY: The design capacity for normal domestic wastewater as established by accepted engineering standards.

TREATMENT PARAMETER: A fundamental characteristic of sewage around which treatment is designed, such as, but not limited to, flow, BOD, and suspended solids.

TSS: Total suspended solids, expressed in milligrams per liter, in a user's discharge. (Ord. 1950, 08/05/97)

TRUNK SEWER: A sewer which receives sewage from many tributary main sewers and serves as an outlet for a large territory.

UPSET: An exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. This does not include noncompliance due to operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

U.S.C. The United States Code, as amended. (Ord. 1950, 08/05/97)

USER: Any person, lot, parcel of land, building, premises, Municipal corporation or other political subdivision that discharges, causes or permits the discharge of wastewater into the sewage system.

UTILITIES DEPARTMENT: The Utilities Department of the City. (Ord. 1950, 08/05/97)

VOC (Volatile Organic Chemistry): Those parameters included in EPA method 601/602.

WASTEWATER SYSTEM: All facilities for collection, pumping, treating, and disposing of sewage. As used in this Chapter the terms sewer system or wastewater system shall have the same meaning and definition.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 1236, 11-29-82)

(Ord. No. 1681, Amended, 12/04/90; Ord. No. 1693, Amended, 05/07/91; Ord. No. 1723, Amended, 04/07/92; Ord. No. 1950, Revised, 08/05/97)

SECTION 7-02-001-0005 INTERFERENCE WITH THE UTILITIES DEPARTMENT; DIGGING UP STREETS WITHOUT A PERMIT; TAMPERING WITH EQUIPMENT PROHIBITED:

Every person who shall in any way interfere with employees of the Utilities Department in any discharge of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the City, or the cleaning, laying, or connection of any such pipe or main or lateral, or who shall dig up or cause to be dug up, any street or alley in the City for the purpose of connecting with the sewer system of the City without first obtaining a permit from the City Engineer, or who, having a permit, shall dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City and shall fail or neglect to place the street or alley in its original condition, or who shall maliciously or wilfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Municipal sewer system shall be guilty of a petty offense. (Ord. 1104, 12-4-79)

SECTION 7-02-001-0006 ALLOCATION OF RESPONSIBILITY FOR CLEANING, REPAIR AND REPLACEMENT OF BUILDING SEWERS AND CONNECTIONS:

- A. The property owner shall be responsible for the cleaning, unstopping, maintenance and repair of the sewer connection piping serving the owner's property from the owner's home or building to the public sewer main. (Ord. 1631, 8/1/89)
- B. Where the correction of a stoppage requires the repair or replacement of a damaged or broken section which is located off-property in a street or alley, the necessary repairs must be made by a licensed contractor, the scope of which licenses allows him to work within a public right of way subject to securing a right of way permit from the Engineering Division.

After repairs are made to a sewer connection in a concrete or asphalt street the street shall be cut, filled, and compacted to grade, the top lift being one foot of road base material approved by the City Engineering Division. Upon completion, the street shall be opened to traffic and the City Public Works Department contacted to repair the street.

When the repairs to a sewer connection are required under a sidewalk, curb or gutter, the sidewalk, curb or gutter shall be square cut to avoid unnecessary damage. After completion, the excavation shall be backfilled and compacted to grade and the City Public Works Department contacted to repair the sidewalk, curb or gutter.

If in the opinion of the City Utilities Director an unnecessary amount of street, sidewalk, or curb and gutter is damaged in the process of making the repair, the contractor shall be charged for the repair of that amount. (Ord. 1631, 8/1/89)

C.

- 1. If the property owner perceives the location of a sewer service problem to be the City's main sewer line, the property owner should contact the City's Utilities Director. (Ord. 1631, 8/1/89)
- 2. The City will cooperate with the property owner to locate the cause of a sewer service problem, including the performance of appropriate tests or inspections on the City's main line. If the location of the sewer service problem is identified to be in the property owner's service line, responsibility for the repairs pursuant to paragraph (A) above. The City will cease any repair efforts if responsibility for the repairs fall on the property owner pursuant to paragraph (A) above. (Ord. 1631, 8/1/89)
- 3. If the location is determined to be in the City's main line, the City will initiate the appropriate repair action.
- 4. If the location of the sewer problem cannot be identified, the City will proceed with the appropriate excavation to locate the cause of the problem. If the location of the problem is determined to be within the property owner's service line, responsibility for the repairs shall be pursuant to paragraph (A) above. In addition, the

property owner shall reimburse the City for costs incurred by the City in performing the necessary excavation if responsibility for the repair is on the property owner pursuant to paragraph (A) above. If the location of the problem is within the City's main line, the City shall perform the appropriate repairs and the property owner shall bear no responsibility for the costs of excavation. (Ord. 1631, 8/1/89)

(Ord. No. 1631, Amended, 08/01/89)

SECTION 7-02-001-0007 UNSANITARY DISPOSAL OF EXCREMENT PROHIBITED:

It shall be unlawful for any person to deposit, or permit to be deposited, in an unsanitary manner, upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste.

SECTION 7-02-001-0008 TREATMENT OF POLLUTED WASTES REQUIRED:

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided, in accordance with provisions of this Chapter. (Ord. 1104, 12-4-79)

SECTION 7-02-001-0009 PROHIBITED SUBSTANCES:

- A. The Director of Utilities shall have the authority to regulate the volume and flow rate of discharge to the sewage works and to establish permissible limits of concentration for various specific substances, materials, or wastes that can be accepted into the sewage works, and to specify those substances, materials, waters or wastes that are prohibited from entering the sewage works. (Ord. 1693, 5/7/91)
- B. The following are prohibited from the City wastewater collection system:
 - 1. Any substance that interferes with the POTW or wastewater collection system.
 - 2. Any liquids, solids, or gases which by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the POTW from fire or explosion. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge to the POTW, be more than five percent (5%), nor any single reading over ten percent (10%), of the Lower Explosive Limit (LEL) of the meters. Prohibited materials include, but are not limited to: Gasoline, kerosene, naphtha, benzene trichloroethylene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, wastestreams with a closed cup flash point of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21. (Ord. 1693, 5/7/91)

3. Any water which contains a solid or viscous substance which could obstruct the flow in the collection system or interfere with the POTW. (Ord. 1989, 1/19/99)
4. Any particles greater than one-half inch (1/2") in any dimension, animal tissues, manure, ashes, cinders, sand, metal, glass, straw, paper, wood, plastics, gas, tar, asphalt and grinding wastes. (Ord. 1896, 11/21/95)
5. Any substance that can cause corrosive damage to the POTW or collection system and any substance with a pH of less than 5.0 standard units (s.u.) or greater than 12.5. s.u. (Ord. 1958, 10/07/97)
6. Any liquid or vapor which causes the temperature entering the POTW to exceed one hundred four degrees (104o) Fahrenheit (40o C) or any liquid or vapor with a temperature greater than one hundred sixty degrees (160o) Fahrenheit (71o C). (Ord. 1693, 5-7-91)
7. Any toxic or radioactive substance in sufficient quantity to interfere with the POTW or collection system or to create a health or environmental hazard.
8. Any substance requiring unusual attention or expense of the City unless specifically authorized. Compensatory payments be determined by the City to be paid by the user who contributes any such authorized substance.
9. Any noxious or malodorous liquid, gas or solid which creates a public nuisance, health or environmental hazard, or inhibits entry into any part of the wastewater system for maintenance or monitoring.
10. Any water with a volume greater than twenty (20) GPM containing dyes, inks or other color-causing substances that change the typical color in the wastewater collection system.
11. Any substance causing a hazard to health or to the environment.
12. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that cause interference or pass through. (Ord. 1693, 5-7-91)
13. Any trucked or hauled pollutants, except at discharge points designated by the POTW. (Ord. 1693, 5-7-91)
14. Any combination of substances contributed by one or more users which results in any of the above situations.
15. The following pesticides are expressly prohibited from discharge into the City sewer system: 4,4'-DDD; 4,4'-DDE; 4,4'-DDT; and Heptachlor.

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1896, Amended, 01/08/96; Ord. No. 1896, Amended, 11/21/95; Ord. No. 1958, Amended, 10/07/97; Ord. No. 1989, Amended, 01/19/99)
(Ord. 2002-08, Amended, 07/16/2002)

SECTION 7-02-001-0010 STANDARDS FOR DISCHARGE:

- A. A technically-based determination of local Industrial User discharge limits for heavy metals, organics and other pollutants, for which there exists a specific discharge limit at the POTW, be made by the City Utility Director and EPA. Such determination shall take into account removal percentages of the POTW, and dilution factors. (Ord. 1693, 5/7/91)
- B. The following specific limits shall apply to all Industrial User discharges and may be modified, with prior notice to the Industrial User and an opportunity to respond, to comply with applicable state and/or federal regulations. (Ord. 1693, 5-7-91)

Parameter	Maximum (mg/l)
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Lead	.98
Copper	1.00
Zinc	1.40
Mercury	.03
Methylene Chloride	4.10
Cyanide(Total)	.24
Arsenic	.26
Silver	.72
Toluene	4.20
BOD	1,000.00
TSS	1,200.00

(Ord. 1896, 11/21/95)

- C. The City may set limits based on mass measurements of pollutants for a particular substance or a particular user if it is necessary for adequate regulation. Discharge limits be set in order to meet any limits set for sludge disposal.
- D. Industrial users meet the requirements of the U.S. Code of Federal Regulations, 40 CFR 403 and the amendments thereof. No discharge may exceed any Federal categorical standard or cause the POTW to exceed its NPDES Permit. The City may request approval to modify a Federal Categorical Standard, according to 40 CFR 403. (Ord. 1693, 5-7-91)
- E. Dilution be used to meet a standard or limit unless it is expressly authorized by the categorical standard set by the EPA or by the City. (Ord. 1693, 5/7/91)
- F. Bypass prohibition:
1. Notice of bypass to occur
 - a. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Utilities Director, if possible, at least ten days before the date of the bypass.

- b. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Director of Utilities within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

2. Prohibition of bypass

Bypass is prohibited, and the Utilities Department may take enforcement action against an Industrial User for a bypass unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. there were no feasible alternatives to the bypass;
- c. the User submitted notices as required above.

G. O & M Requirements:

Industrial Users required to install suitable pretreatment facilities to treat wastestreams which do not meet City discharge limits, shall provide necessary maintenance on such equipment to ensure their continued and efficient operation. Such facilities shall be attended by a person who has obtained certification as a wastewater operator by ADEQ at a level appropriate for the facilities being tended.

An Industrial violation of City discharge limits which is due to operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, carelessness or improper operation not be considered unintentional by the City of Flagstaff.

All Industrial Users shall maintain their general facilities in such a manner as to eliminate or minimize the possibility of discharge of substances by that industry, which are in violation of applicable Pretreatment Standards. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1896, Amended, 11/21/95; Ord. No. 1950, Revised, 08/05/97)
(Ord. 2002-08, Amended, 07/16/2002)

SECTION 7-02-001-0011 INDUSTRIAL CLASSIFICATION:

- A. Each Industrial User shall be classified into one of the following categories as designated by the Code of Federal Regulations 40 CFR 403.3 (t) 1 & 2.

1. Significant - defined as any industry that:

- a. Is subject to categorical standards as defined by 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
 - b. Discharges an average process wastestream of 25,000 gallons per day (0.025mgd) or more to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater.)
 - c. Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the POTW.
 - d. Has a reasonable potential, in the opinion of the Utilities Director, to adversely affect the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8 (f) (6) or this ordinance.
2. Minor - Those industries that by themselves do not significantly impact the treatment system, degrade receiving water quality, or contaminate sludge. Industries that have the potential to discharge a nondomestic or process wastestream, but at the present time discharge only sanitary waste, may also be included in this group.
- B. The City will notify all users of Federal and local requirements which may be applicable to them. Significant Industrial Users shall receive a copy of:
1. This chapter
 2. Applicable parts of the U.S. Code of Federal Regulations
 3. An application for an Industrial Wastewater Discharge Permit
 4. Applicable Categorical Standards
 5. Any other pertinent materials
 6. Any changes in Federal or local requirements as they occur
- C. The Industrial User may request certification of it's Industrial User Classification from the EPA according to 40 CFR 403.6 (a). The Industrial User may request variation from Federal Categorical Standards according to 40 CFR 403.13 and the Clean Water Act. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0012 INDUSTRIAL SELF-MONITORING:

- A. Significant Industrial Users, at the User's expense, must provide safe and convenient access for sampling by the City. A City approved manhole must be provided from which a sample that is representative of the total discharge can be taken. There must be unobstructed access to the open flow in the manhole so that a grab sample can be taken and so that sampling equipment can be set up in the manhole.

- B. Sampling and analysis must be performed by Significant Industrial Users, at their own expense, at least twice each year, in two separate quarters, (April -June and October - December), and results of such sampling submitted to the City before the last day of each respective quarter or as directed by the City. The City may perform such sampling for the Significant Industrial User if they so choose.

If any sample that is taken by the Industrial User or the City is not within the limits of this Chapter or the categorical standards, then the Industrial User, or the City if they so choose, shall repeat the sampling within 30 days of becoming aware of the violation or more often if it is determined to be necessary by the City.

- C. A minimum of four (4) grab samples, pulled at least every two hours, must be used when sampling for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques, where feasible. The City may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Sampling must be performed for 5 consecutive days which are representative of the effluent being discharged on a typical production day or as directed by the City.
- D. The flow must be measured by the Industrial User at the time that the sample is taken, according to 40 CFR 403.12 and section 7-2-43 of this Ordinance.
- E. The methods of sampling must be performed in accordance with 40 CFR 136 and any other applicable federal, state, or local requirements and the sampling location and type approved by the City. An authorized representative of the Industry (see section 7-2-14) shall sign and submit with these sample results, a statement verifying the validity of the methods and location.
- F. All records of sampling, analysis and flows must be kept by the Industrial User and the City for at least three (3) years. All records must be available to the City. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Enacted, 05/07/91)

SECTION 7-02-001-0013 REPORTING REQUIREMENTS:

- A. Within 180 days of the promulgation by the EPA of a categorical standard or within 180 days of a final administrative decision, the Industrial Users that are subject to the standard must report the information provided for in 40 CFR 403.12 (b). This information must also be supplied by existing sources of discharge as well as new sources that discharge after the standards have been promulgated.
- B. All Industrial Users must immediately report to the Utilities Department or to the Wildcat Hill Wastewater Treatment Plant any discharge, including accidental discharge, which contains a slug load, a prohibited

substance, or any substance which might be harmful to the POTW, the collection system, the environment or to any person.

- C. The Industrial User must provide a written report (separate from the immediate report) within five (5) days of the detection of the upset. The report must include the nature and volume of the discharge, the period of noncompliance including exact dates and time or if not corrected the anticipated time the upset is expected to continue, the action being taken by the Industrial User to correct the problem and preventive measures needed to avoid future spills.
- D. The Significant Industrial user shall report to the City immediately any significant changes in production, including, but not limited to, production rate, product, raw materials utilized, rate of discharge, concentration of pollutants being discharged, etc.
- E. If in the course of self-monitoring, a Categorical Industrial User becomes aware of a violation of their Categorical limits, they shall notify the City within 24 hours of becoming aware of such.
- F. If an Industrial User subject to reporting requirements of this section monitors any pollutant more frequently than required by the City, using the procedures prescribed in Section 7-2-12 of this Chapter, the results of this monitoring shall be submitted to the City also.
- G. All Industrial Users shall notify the POTW , the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing and within 180 days of any discharge into the POTW of a substance, which, if otherwise disposed of would be a hazardous waste under 40 CFR part 261 as required in 40 CFR 403.12(p) (1) through (4). (Ord. 1693, 5/7/91)

(Ord. No. 1693, Enacted, 05/07/91)

SECTION 7-02-001-0014 SIGNATORY REQUIREMENTS:

- A. The reports required by this Chapter must be signed as follows:
 - 1. By a responsible corporate officer, if the Industrial User submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice- president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively.
3. By a duly authorized representative of the individual designated in paragraph 1 of this section if:
 - a. The authorization is made in writing by the individual described in paragraph 1;
 - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - c. the written authorization is submitted to the City of Flagstaff, Utilities Department.
4. If an authorization under paragraph 3 of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of paragraph 3 of this section must be submitted to the City of Flagstaff Utilities Department prior to or together with any reports to be signed by an authorized representative. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0015 CONFIDENTIALITY OF BUSINESS INFORMATION:

- A. Any information, except effluent data as defined by 40 CFR 2.302, submitted to the City of Flagstaff pursuant to this Chapter, may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission by stamping the words "CONFIDENTIAL BUSINESS INFORMATION" on each page containing such information. If no claim is made at the time of submission, the City may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).
- B. For the purposes of this section "effluent data" shall be defined as:
 1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;
 2. information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an

applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and

3. a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
- C. For the purposes of this section, the following shall be considered to be "effluent data" only to the extent necessary to allow the regulatory agency having jurisdiction to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow such regulatory authority to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:
1. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and
 2. information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0016 INTERCEPTORS; TYPE, CAPACITY, LOCATION, MAINTENANCE:

- A. A City approved interceptor is required for any business whose discharge can be determined by the City to interfere with the POTW or the wastewater collection system. If a blockage is found in the collection system and it can be determined by the City to be caused by a particular user's discharge, then the City can require the user to install a City approved interceptor, at the user's expense, to catch the substance causing the blockage. If any interceptor is determined by the City to be inadequate in size or design, the City may require the user to install or upgrade such interceptor at the user's expense.
- B. A City approved grease interceptor is required for any restaurant or other business that performs cooking. Grease interceptor sizing is to be as provided in the UNIFORM BUILDING CODE, APPENDIX H4 with the minimum size for such interceptors required for restaurants to be forty (40) pounds. All piping from sinks, floor drains, kettles, dishwashing machines, etc. into which grease may be disposed must be connected through such interceptor. Grease interceptors may not be installed in any part of a building where food is handled. (Ord. 1876, 06/20/95)

An exemption of the minimum grease trap sizing will be considered for business based on type of food preparation that is done on site. This exemption must be approved by the Industrial Waste Division and the Utilities Director. The business must serve food that is commonly known to be low in potential grease generation and the waste stream discharge

must produce less than 100 mg/l of oil and grease as determined by the City. After an exemption is granted to a business, if the business changes food service, generates greater than 100 mg/l of oil and grease, or causes an interference or blockage to the sewer collection system due to grease, the business will be required to install a properly sized grease trap in accordance with Flagstaff City Code, Section 7-02-001-0016(A). (Ord. 1896, 11/21/95)

- C. A City approved oil interceptor is required for any business that performs automotive repairs or service. (See standard drawing for size and other specifications)
- D. A City approved lint interceptor is required for any business with six (6) or more residential size washing machines or any amount of industrial size washing machines. An industrial size washing machine is one that has a tub 3.5 cubic feet or larger and/or an American Household Appliance Manufacturers Association ("AHAMA") capacity of 25 pounds or more. Residential machines will be any washing machine with less capacity than industrial machines. (See standard drawing for lint interceptor size and other specifications.)
- E. A City approved sand interceptor is required for any business with facilities for washing vehicles. (See standard drawing for size and other specifications)
- F. All interceptors shall be of a type and capacity approved by the Director of Utilities and shall be located so as to be readily and easily accessible for cleaning and inspection.
- G. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers. When bolted covers are required they shall be gastight and watertight.
- H. Where installed, all interceptors shall be maintained by the owner and/or user at his or her own expense. The interceptor must be kept in continuously efficient operation at all times and a written record of maintenance performed on such interceptor shall be kept by the user on a form provided by the City.
- I. The City shall periodically inspect such interceptors and/or records to insure they are being kept in efficient operation. A cleaning schedule will be set by the City if it is necessary to prevent the entry of harmful substances into the collection system. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91; Ord. No. 1876, Amended, 06/20/95; Ord. No. 1896, Amended, 11/21/95)
(Ord. 2000-23, Amended, 10/03/2000)

SECTION 7-02-001-0017 CONTROL MANHOLES:

When required by the Director of Utilities, the owner of any property served by a building sewer carrying potentially harmful or industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, measurement and sampling of the wastes. Such manhole, when

required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Director of Utilities. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Users whose effluent must be treated before it enters the wastewater collection system or whose effluent may potentially contain any prohibited substance may be required to install a control manhole for sampling purposes. The manhole must be located so that a representative sample can be taken and there must be unobstructed access to the open flow in the manhole so that a grab sample can be taken and so that sampling equipment can be set up in the manhole.

SECTION 7-02-001-0018 RIGHT OF ENTRY FOR INSPECTIONS AND MONITORING:

- A. Any authorized employee of the City Utilities Department shall, upon presentation of his credentials, have free access at all reasonable hours to any commercial or industrial premises connected to or disposing of any type waste to the City wastewater system for the purpose of surveillance and/or an inspection of the premises to determine the nature and quantity of wastes discharged to the City wastewater system, or for examining or copying records, required by 40 CFR 403.12(m). The Industrial User must make freely available to the City any and all records which would enable them to make an accurate determination of the constituents and flow of the User's wastestream. (Ord. 1693, 5-7-91)
- B. Servicemen, industrial waste inspectors, sanitary engineers, or other designated representatives of the Department, whose duty it may be to enter upon commercial or industrial premises to make inspections and collect samples or measure the quantity of wastes discharged to the City sewer, shall be provided with credentials to identify them as authorized representatives for the Utilities Department. (Ord. 1693, 5-7-91)
- C. No person, except an authorized employee of the Utilities Department shall have or exhibit any credentials of that Department. It shall be the responsibility of each employee or authorized representative of the Department, upon resignation or dismissal, to deliver and surrender at the office of the Director of Utilities all credentials of the Department in his/her possession. (Ord. 1693, 5-7-91)
- D. Questionnaires will be provided to all new businesses entering the City of Flagstaff to gather information pertaining to waste that may be generated by such. If any waste other than domestic is discharged from such an establishment, the City may perform an inspection of such premises at least annually or more often as necessary to determine it's status of compliance with this Chapter.
- E. The City of Flagstaff or it's designated representative shall have the authority to randomly sample Industrial User wastestreams and analyze for any pollutants that would be anticipated to be present for that particular user utilizing EPA approved methods. The City will review and analyze self-monitoring reports submitted by Industrial Users and make notification to such user of any compliance action to be taken as a result of such.
- F. The information from the City's inspection and monitoring activity will be available to the administrative authority of the State and/or EPA. This information will also be made available to the general public upon

request with the exception of that information protected by Section 7-02-001-0015 of this Chapter. The City will maintain these records for a minimum of three years.

- G. The Industrial User shall be financially responsible for any sampling and analysis performed by the City which is not routine as provided for in this Chapter. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91)

SECTION 7-02-001-0019 PROVISION OF FALSE INFORMATION:

- A. Reports, documents, questionnaires or any other information provided to the city as required by this Chapter by a commercial or industrial user shall be subject to:
1. The provisions of 18 U.S.C. section 1001 relating to fraud and false statements.
 2. The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification.
 3. The provisions of section 309(c) (6) of the Act regarding responsible corporate officers.
- B. Failure or refusal by the industrial user to provide information requested by the City as provided for in this Chapter will result in enforcement action being taken against such user. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0020 PUBLIC NOTIFICATION, DEFINITION OF SIGNIFICANT VIOLATION:

- A. The City shall give notice of any decisions being made about the pretreatment program which may interest the public, special interest groups, or government agencies. Information about the operation or requirements of the program will be given to any party which requests it. An advisory committee may be used for public information and input if there is an interest expressed in this.
- B. The City will publish in the largest local newspaper, at least once each year, a list of Industrial users who have not been in compliance with any substantial portion of this Chapter at any time during the previous year. For the purpose of this section, an Industrial User is in significant noncompliance if it's violation meets one or more of the following criteria:
1. Chronic violation of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

2. technical Review Criteria (TRC) violations , defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
3. any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of it's emergency authority to halt or prevent such a discharge;
5. failure to meet within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
6. failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. failure to accurately report noncompliance;
8. any other violation or group of violations which City Utilities Director determines will adversely affect the efficient operation of the City Wastewater Treatment facilities or implementation of this Ordinance. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0021 PROCEDURES FOR ENFORCEMENT:

A. CITY ENFORCEMENT RESPONSE GUIDE

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall at a minimum:

1. describe how the POTW will investigate instances of noncompliance;
2. describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
3. identify by title, the official(s) responsible for each type of response.

The City shall provide notification of such plan to all Significant Industrial Users upon determination of their status and any other Industrial Users by request.

B. Notification of Violation.

1. Whenever the Director finds that a user is in violation of any provision of these Wastewater Regulations, any part of a wastewater discharge permit issued pursuant to these Wastewater Regulations, or any order for corrective action or administrative order issued pursuant to these Wastewater Regulations, the Director shall serve or cause to be served upon such user, a written Notification of Violation (NOV). The NOV shall state the basis in fact for each alleged violation. The NOV may include, but shall not be limited to:

- a. An Order for Corrective Action;
- b. A schedule to attain compliance;
- c. An Order to Show Cause either in writing or in person;
- d. An Order to Cease Discharge;
- e. A suspension or revocation of the user's permit;
- f. An Order to Respond in Writing to the allegations.

Additional orders and changes to a suspension or revocation may follow the initial order at the discretion of the Director or as additional information becomes available.

C. Response to Notification of Violation. The user shall respond to the NOV in writing to the Director within the specified time frame. In no instance shall an initial response to the NOV be due any later than ten days from receipt of the NOV by the user. The response shall be complete, containing all information and data required by the NOV.

If the response to the NOV requires an Order to Show Cause, the user shall respond by demonstrating why the Director should not ask the Flagstaff City Attorney to file a civil action in superior court requesting injunctive relief and penalties, or a criminal misdemeanor action in city court.

D. Resolution of Notification of Violation. Upon review of a response to the NOV, the Director may accept the response as complete and satisfactory. If this is the case, the Director shall consider the issue regarding the NOV closed. The Director shall notify the user in writing regarding the closure of the NOV. The closure of the NOV shall not preclude further enforcement action.

E. Deficient Response to Notification of Violation. Upon review of a response to the NOV, the Director may determine the response to be deficient. In the event of a deficient response, the Director may take, but shall not be limited to taking, the following actions: require the submittal of any nonsubmitted or incomplete information; suspend or revoke the user's permit; order the user to cease discharge; and/or seek any penalties applicable to the alleged violations.

F. COMPLIANCE SCHEDULE FOR INDUSTRIAL USERS

1. A compliance schedule will be set for Industrial Users that do not meet the standards of the Code of Federal Regulations, applicable state regulations or this Chapter. Final determination on compliance dates will be made by the City Utilities Director.
2. Industrial Users who do not agree to a compliance schedule with the City of Flagstaff may be subject to discontinuance of their water and/or sewer service as provided for in this chapter.

G. EFFECTS OF AN UPSET

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the Industrial User can demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the Industrial User can identify the specific cause(s) of the Upset;
2. the facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
3. the Industrial User has submitted the reports required in Section 7-02-001-0013 of this Chapter in a timely manner.

H. Judicial proceedings.

Initiation of Legal Action. Whenever the Director finds that a user has violated any of the provisions of these Wastewater Regulations, the Director may ask the Flagstaff City Attorney to take appropriate legal action. This legal action may include, but shall not be limited to, the following:

1. Prohibitive injunctions;
2. Mandatory injunctions for corrective action and cleanup;
3. Civil penalties pursuant to A.R.S. Section 49-391 and these Wastewater Regulations;
4. Criminal misdemeanor penalties pursuant to A.R.S. Section 9-240 (28), Section 13-802, and Section 13-707;
5. Recovery of damages from costs to the POTW.

I. Civil Penalties for Violation.

1. The civil penalties for violation of any specific pollutant limit set forth in these Wastewater Regulations, or in any permit issued pursuant to these Wastewater Regulations, shall not exceed twenty-five thousand dollars (\$25,000) for each violation. Each day that a specific pollutant limit exceedance occurs may constitute a separate violation.

2. The civil penalties for non-submittal of any reports, or for noncompliance with any reporting, sampling, monitoring, or documenting requirements set forth in these Wastewater Regulations, or in any permit issued pursuant to these Wastewater Regulations, shall not exceed one thousand dollars (\$1,000) for each business day (weekends and holidays excluded) that such non-submittal or noncompliance occurs.
3. The civil penalties for failure to maintain such equipment as may be necessary to conduct any wastewater self-monitoring required by these Wastewater Regulations, or by any permit issued pursuant to these Wastewater Regulations, shall not exceed five hundred dollars (\$500) per business day for each day that such failure continues; provided, however, that the Director may, in his sole discretion, waive any penalty under this Subsection 3 for any instance in which failure to maintain such equipment results in a violation for which the user is subject to a surcharge under Sections 0038.H and 0039.C and/or a penalty under Subsection 1 of this Section 0021 of these Wastewater Regulations.

J. DISCONTINUANCE OF SERVICE FOR INDUSTRIAL USER NONCOMPLIANCE

1. For hazardous discharges: The violation of any section of this Chapter shall be sufficient cause for the City to discontinue, after informal notice (phone call), water or sewer service to any premise that appears to present an imminent endangerment to the health and welfare of persons or the POTW.
2. For instances of noncompliance other than hazardous discharges: The City will provide written notice to the Industrial User, by certified, return receipt requested mail, at least 24 hours in advance and provide the industry with an opportunity to respond before proceeding with discontinuance of water or sewer service.
3. Such service shall not be restored until the violations have been discontinued or eliminated and the City may undertake any legal proceedings as may be necessary to halt, enjoin or punish the illegal discharge.
4. The User shall be responsible for any expenses the City may incur as a result of handling or eliminating any illegal discharge, for reasonable attorney's fees or for any damages resulting from such discharge. (Ord. 1693, 5-7-91)

K. PAYMENT OF SURCHARGES AND PENALTIES

All surcharges and penalties levied under this Chapter shall be due and payable in the same manner and within the same time as other charges under this Chapter in accordance with Section 0045 hereof.

L. AUTHORITY TO DISREGARD SAMPLES

In any circumstance in which clear and convincing evidence demonstrates, to the satisfaction of the Director, that one or more effluent samples or analyses thereof taken or performed by or for an Industrial User, as required by Section 0012 of this Chapter and/or such User's wastewater discharge permit or compliance schedule, is not accurate or

representative of such User's discharge, then the Director or his designee may, but shall not be required to, disregard such sample(s) or analysis(es) for purposes of determining any surcharge or penalty imposed by this Chapter, provided that such action by the Director (or designee) does not contravene any state or federal law, rule or regulation. The foregoing authorization of the Director to disregard samples or analyses shall (1) create no independent right in any Industrial User, and (2) be exercised, if at all, in the sole discretion of the Director. Any determination made by the Director hereunder shall be final.

M. AUTHORITY TO CREDIT PRETREATMENT EXPENDITURES

Notwithstanding any other provision of this Chapter, the Director may, but shall not be required to, allow a credit against, or grant a rebate of, any surcharge or penalty imposed under this Chapter for violation of any pretreatment standards, for up to sixty percent (60%) of such substantiated expenditures made within one (1) year of such violation for improvement of the Industrial User's pretreatment facilities as the Director, in his sole discretion, shall determine as appropriate and likely to correct or ameliorate the violation giving rise to such surcharge or penalty. The foregoing authorization of the Director to credit pretreatment expenditures or grant rebates therefor shall:

1. not apply to any surcharge or penalty resulting from a violation of pretreatment standards that causes
 - a. a pass-through or interference at the POTW,
 - b. a violation of any requirement of the POTW's NPDES permit, or
 - c. an endangerment of the health or safety of POTW personnel or the general public;
2. create no independent right in any Industrial User;
3. be exercised, if at all, only upon a written request of the Industrial User filed within one (1) year of the subject violation; and
4. be exercised, if at all, in the sole discretion of the Director (and/or the Water Commission, if the matter is appealed under Subsection (N) hereof). Any determination made by the Director hereunder shall be final, subject only to review and other disposition by the Water Commission, if the matter is appealed under Subsection (N) hereof.

N. PROTEST AND APPEAL OF PENALTIES AND SURCHARGES

1. An Industrial User may informally discuss any proposed surcharge or penalty with the Director at any time either before or after the assessment of the same, but any such informal conference is not required for the Industrial User to file a protest and request for an appeal hereunder.
2. At any time within thirty (30) days of the assessment of any surcharge or penalty hereunder, the Industrial User against whom the same is assessed may contest the applicability or amount of

such surcharge or penalty, by filing with the Director a written protest and request for a hearing for redetermination of the same, either with payment of the surcharge or penalty or separately. Notwithstanding the foregoing, such protest and request for redetermination may be filed at any time within forty-five (45) days of the effective date of this Ordinance with respect to any penalty or surcharge assessment occurring within six (6) months of such effective date.

3. An Industrial User may request one extension for filing a protest from the Director. Such request must be in writing, state the reasons for the requested delay and time of delay requested, and be filed with the Director within the period allowed above for originally filing a protest. The Director shall allow the extension to file a protest when such written request has been properly and timely made by the Industrial User, but no such extension shall exceed forty five (45) days beyond the time provided for originally filing a protest.
4. Any payment of surcharge or penalty hereunder not accompanied or preceded by a protest and request for hearing, or otherwise clearly designated as being paid under protest and followed by a timely-filed written protest, shall be accepted by the City and credited to the User as though not made under protest.
5. The Industrial User's protest shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of abatement or refund requested. The User's protest may be amended by written notice to the Director, or during the hearing, at any time prior to the time the User rests its case at the hearing. The Director shall be provided with a reasonable period of time to review and respond to the petition and any amendments thereto, which may require adjournment if amendments are made at the hearing.
6. The Director shall forward all timely received protests to the City's Water Commission within thirty (30) days of receipt. If the Water Commission shall determine that the User's protest is not in proper form, the Water Commission may, at its discretion, grant the User an extension of up to thirty (30) days to correct its protest.
7. All protests shall be heard by the City's Water Commission, according to its usual rules of procedure, and shall be continuous until the Water Commission closes the record. The User may be heard in person or by its authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Water Commission shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary business records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Water Commission shall be made solely upon substantial and reliable evidence presented with the User's protest

or at the hearing. All expenses incurred in the hearing shall be paid by the party incurring the same.

8. In its determination of an appeal hereunder, the Water Commission may (but shall not be required to) rebate or refund any amount of surcharge and/or penalty imposed under this Chapter, in consideration of the User's pretreatment expenditures in accordance with Subsection (M) hereof or otherwise, as it shall decide would best serve the interests of equity and protection of public health and safety.
9. The Water Commission shall issue its ruling not later than forty-five (45) days after the close of the record thereon. Any refund of surcharges or penalties ordered by the Water Commission pursuant to a hearing hereunder shall be made within thirty (30) days of the Water Commission's order therefor, or at such later date as the Water Commission shall provide in its order.
10. No filing of any protest, request or grant of any extension, or pendency of any hearing hereunder shall relieve any Industrial User of any payment or other obligation of the Industrial User resulting from any violation or alleged violation of any provision of this Chapter.

NOTE: City should not relieve, set aside, or redistribute an industry's penalty, fine, or surcharge, where it is imposed for actual violations of the City's ordinance. If the industry can show that the allegations against it are invalid, the penalty, fine, or surcharge could be dismissed.

(Ord. 1950, 08/05/97); (Ord. No. 1693, Rep&ReEn, 05/07/91; Ord. No. 1950, Revised, 08/05/97)
(Ord. 2002-08, Amended, 07/16/2002)

SECTION 7-02-001-0022 PUBLIC RECLAIMED WASTEWATER PIPELINE AND SEWER EXTENSIONS; APPROVAL BY CITY ENGINEER:

No public reclaimed wastewater pipeline or public sewer extension shall be made until the plans and specifications are approved by the City Engineer. Public reclaimed wastewater pipeline and public sewer extensions shall be constructed in accordance with standards and specifications as set forth in the City of Flagstaff General Construction Standards and Specifications. Such document is on file in the office of the City Engineer. (Ord. 1723, 4/7/92)

(Ord. No. 1723, Amended, 04/07/92)

SECTION 7-02-001-0023 CONSTRUCTION AND OWNERSHIP OF PUBLIC RECLAIMED WASTEWATER PIPELINES, PUBLIC SEWER LINES AND OTHER EQUIPMENT MAINTAINED BY UTILITIES DEPARTMENT:

- A. In new subdivisions and developments where public sewers are authorized by the City, such public sewers shall be constructed at the developer's expense. Detailed plans and specifications for public sewer extensions must be approved by the City Engineer prior to construction. The engineering cost for the preparation of plans and specifications, the

staking of the location of the new public sewers, the cost of inspecting the construction, the preparation of as-built plans and the cost of easements shall be assumed by the developer. The City will perform the inspection during construction at the developer's expense.

- B. The ownership of all public sewer lines, pumping stations, treatment facilities, and equipment and other appurtenances to the sewer system maintained, or accepted for maintenance by the Utilities Department shall be vested in the City, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in this Code.
- C. Where extensions of public reclaimed wastewater pipelines are authorized by the City, such pipelines shall be constructed at the reuser's expense. Detailed plans and specifications for public reclaimed wastewater pipeline extensions shall be approved by the City Engineer prior to construction. The engineering cost for the preparation of the plans and specifications, the staking of the location of the new reclaimed wastewater pipeline, the cost of inspecting the construction, the preparation of as-built plans and the cost of easements shall be assumed by the reuser. The City will perform the inspection during construction at the reuser's expense. (Ord. 1723, 4/7/92)
- D. The ownership of all public reclaimed wastewater pipelines, pumping stations, treatment facilities, equipment and other appurtenances to the reclaimed wastewater system maintained, or accepted for maintenance by the City shall be vested in the City, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in this Code (Ord. 1723, 4/7/92); (Ord. No. 1723, Amended, 04/07/92)

**SECTION 7-02-001-0024 PUBLIC RECLAIMED WATER PIPELINE EXTENSION AND
CONVERSION POLICY FOR REUSERS:**

- A. Definitions: For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

REUSER: Any person or persons requesting or required to connect to the reclaimed water system of the City for any residential or nonresidential use, use where potable water quality is not required by City, State, or Federal Regulations.

POINT OF DELIVERY: A location designated by the City for acceptance and measuring of the reclaimed water by the reuser. The point of delivery shall include a vault, pit, meter, valves, and other appurtenances necessary to meter reclaimed water to the reuser.

RECLAIMED WATER AGREEMENT: A written agreement between the reclaimed water reuser and the Department for connection to an existing public reclaimed water pipeline, approved and executed in the name of the Department by the City's Utilities Director.

REIMBURSEMENT AGREEMENT FOR RECLAIMED WATER: A written agreement between the reclaimed water reuser and the City for reimbursement of the reuser's costs incurred in providing for the extension of, and connection to, a

public reclaimed water pipeline, approved by the City Council and executed in the name of the City by the Mayor.

CONVERSION AGREEMENT FOR RECLAIMED WATER: A written agreement between the City and the reclaimed water reuser for reimbursement of the City's costs incurred in converting the reuser's potable water system to a reclaimed water system, by the extension of, and connection to, a public reclaimed water pipeline, approved by the City Council and executed in the name of the City by the Mayor.

- B. Plans and Specifications for Public Reclaimed Water Pipeline Extensions: A reuser who wishes to extend or install reclaimed water facilities must employ an engineer, registered in Arizona, to perform the field engineering and prepare detailed plans and specifications for the extension in accordance with good engineering practice, and adopted general construction standards and specifications of the City and regulations of the Arizona Department of Environmental Quality for the reuse of water. The final detailed plans and specifications for the reclaimed water pipeline extension shall be approved by the City Engineer before construction begins.
- C. Costs of Extensions and Conversions: The reuser causing an extension of a public reclaimed water pipeline, conversion of an existing irrigation system to reclaimed water, and the construction of the point of delivery shall pay in full for the rights of way and easements, the purchase, construction and installation of the reclaimed water pipeline, and all other costs of the extension and/or conversion. However, the City reserves the right to increase the diameter of the extension through cash or a reimbursement agreement.
- D. Recovery of Costs of Extensions and Conversions: Subject to City approval, reusers may recover costs incurred from converting an existing irrigation system to use reclaimed wastewater or from extending public reclaimed water pipelines in accordance with paragraph (c) of this Section. Recovery of costs shall be in the form of a rebate amounting to ten percent per year of said costs for a period of ten years. Rebates shall be paid to the reuser at the end of each full calendar year of reclaimed water usage. The total amount of the allowable costs to be recovered shall be agreed to prior to the reuser obtaining reclaimed water and shall be in the form of a written agreement between the City and the reuser. No interest shall be paid to the reuser on the costs being recovered.
- E. Replacement and/or Repair: All persons or other entities who create, cause to be built, or build any such extensions of services as contemplated herein or convert existing irrigation systems to use reclaimed water, shall also pay for any and all such replacements as becomes necessary as a direct or indirect result of the creation, building or construction of such extensions and/or conversions. For example, repairs or replacements of sidewalks, paving or other utilities damaged or disturbed during the building of reclaimed water pipeline extensions and/or conversions. Costs of said replacements and /or repairs may be included in the costs incurred from paragraph (D) of this Section.
- F. Reimbursement Agreement Between City and Reuser: Before the reuser incurs any costs in the extension of any public reclaimed water pipeline to provide service for any individual or property, the reuser desiring such

service shall execute a Reimbursement Agreement for Reclaimed Water with the City which shall include the following:

1. A warranty of workmanship and materials for public reclaimed water pipelines and facilities installed which shall run to the benefit of the City for a period of at least one year from the date of acceptance by the city.
 2. A diagram of all property which will be served by the reclaimed water pipeline to be installed and an irrigation plan for the property.
 3. A statement that the City acquires ownership of public reclaimed water pipelines, appurtenances, and easements upon completion and acceptance by the City.
 4. The regulations for reuse of reclaimed water, quantity, quality, and cost of the reclaimed water.
 5. The terms for cost recovery by the reuser of reclaimed water pipeline extension and/or conversion costs if applicable.
- G. Conversion Agreement Between City and Reuser: Before the City incurs any costs in the extension of any public reclaimed water pipeline needed to convert a reuser's private, potable water system to a reclaimed water system, the City and the reuser shall execute a Conversion Agreement for Reclaimed Water. Conversion agreements are subject to City approval and limited to projects that provide a 'net present value' cost recovery to the City within ten (10) years. Net present value shall be determined by the estimated cost of the project and the current prime interest rate. Recovery of costs shall be in the form of billing for consumption of reclaimed water at 75% of the reuser's present potable water rate. Recovery of costs estimates shall be based on consumption history as determined by the City, or on an engineered estimate in the case of new sites. The availability of Conversion Agreements shall always be subject to budgetary constraint. Conversion Agreements shall include, but not necessarily be limited to, the following:
1. Place of Use
 2. Quality Standards
 3. Point of Delivery
 4. Commodity Rate
 5. Costs to City
 6. Costs to User
 7. Compliance with Regulations
 8. Commencement of Service
 9. Termination of Service
 10. Resale of Reclaimed Water

11. Inspection

- H. Penalty: Any person who excavates or causes an extension to be made for the purpose of laying any reclaimed water pipeline in public streets, alleyways or upon the property of the City without first complying with the provisions hereof, shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. (Ord. 1723, 4/7/92)
- I. The City's Utilities Director shall approve, execute and enforce Reclaimed Water Agreements, for the purpose of expanding the reclaimed water program to all residential and nonresidential reusers located adjacent to existing public reclaimed water pipelines.
- J. Reclaimed Water Agreement Between the Department and the Reuser: Before connecting to an existing public reclaimed water pipeline, the reuser requesting such connection shall execute a Reclaimed Water Agreement with the Department which shall include, but not necessarily be limited to, the following:
 - 1. Place of Use
 - 2. Quality Standards
 - 3. Point of Delivery
 - 4. Commodity Rate
 - 5. Costs to User
 - 6. Compliance with Regulations
 - 7. Commencement of Service
 - 8. Termination of Service
 - 9. Resale of Reclaimed Water
 - 10. Inspection

(Ord. No. 1723, Rep&ReEn, 04/07/92)

(Ord. 2002-07, Amended, 07/16/2002)

SECTION 7-02-001-0025 MAIN SEWER EXTENSION POLICY FOR AREAS BEYOND PRESENT CITY TRUNK LINES:

- A. Definitions: For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

DEVELOPER-OWNER: Any person or persons requesting or required to connect to the sewer system of the City in developing one or more parcels of land. The term includes subdividers, industrial developers, private

property owners, companies and legally constituted improvement districts who improve or serve with sewers, platted or unplatted property.

CITY: The word "City" shall mean the City of Flagstaff in the County of Coconino and the State of Arizona, except as otherwise indicated.

SEWER LINES includes:

1. LATERAL SEWER: A sewer which discharges into a branch or other sewer and has not other common sewer tributary to it.
2. BRANCH SEWER: An arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.
3. MAIN SEWER: A sewer which receives sewage from one or more branch sewers as tributaries.
4. TRUNK SEWER: A sewer which receives sewage from many tributary main sewers, and serves as an outlet for a large territory. (Ord. 1104, 1 2-4-79)

B. Plans and Size of Sewer Line Extensions: A developer-owner who wishes to extend or install sewer facilities must employ an engineer, registered in Arizona, to perform the field engineering and prepare detailed plans and specifications for the sewer extension in accordance with good engineering practice, and adopted standards set forth in the Uniform Building Code (current adopted edition), Uniform Fire Code (current adopted edition), general construction standards and specifications of the City, current subdivision regulations, general land use plan currently adopted, and any applicable State health regulations and any applicable City code requirements or standards. The final detailed plans and specifications for the sewer extensions must be approved by the City Engineer before construction begins. (Ord. 1112, 2-4-80)

C. Costs of Extension: The developer-owner causing an extension of sewer line shall pay in full for the rights of way and easements, the purchase, construction and installation of the sewer lines, and all other costs of extension. However, the City reserves the right to increase the diameter of the extension, if it is deemed advisable, and the City may participate in the oversizing costs, through cash or a reimbursement agreement.

D. Replacement of Repair: All persons or other entities who create, cause to be built, or build any such extensions of any such services as contemplated herein, shall also pay for any and all such replacements as becomes necessary as a direct or indirect result of the creation, building or construction of such extensions. For example, repairs or replacement of sidewalks, paving or other utilities damaged or disturbed during the building of sewer line extensions. (Ord. 1104, 12-4-79)

E. Agreement between City and Developer-Owner: Before the extension of any sewer line shall be made to serve a subdivision, platted or unplatted property, to provide service for any individual or unplatted property, the developer-owner desiring such service shall execute an agreement with the City which shall include the following: (Ord. 1112, 2-4-80)

1. A warranty of workmanship and materials for sewer lines and facilities installed which shall run to the benefit of the City for

a period of at least one year from the date of acceptance by the City.

2. A diagram of all property which may be served by any sewer line to be installed.
3. A statement that the City acquires ownership of sewer line appurtenances and easements upon completion and acceptance of the work by the City.
4. A statement of the developer-owner's proportionate share of the cost for previously installed sewer lines if any reimbursement agreements are in existence concerning the sewer line.

F. Penalty: Repealed. (Ord. 1642, 11/7/89)

(Ord. No. 1642, Amended, 11/07/89)

SECTION 7-02-001-0026 PRIVATE SEWERAGE SYSTEMS; CONSTRUCTION AND MAINTENANCE WITHIN THE CITY PROHIBITED GENERALLY:

Except as provided in this Chapter, it shall be unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

SECTION 7-02-001-0027 PRIVATE SEWERAGE SYSTEMS; WHEN PERMITTED, TO BE CONSTRUCTED AND MAINTAINED IN SANITARY MANNER:

Where in a public sanitary sewer is not available within the City, or in any area under the jurisdiction of the City, the building sewer shall be connected to a private sewage disposal system, complying with the provisions and recommendations of the Arizona Department of Health Services and the sanitary code of the County Health Department. Such private sewage disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

SECTION 7-02-001-0028 PRIVATE SEWERAGE SYSTEMS; DISCONTINUANCE:

At such time as a public sewer becomes available to property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this Article and any septic tank, cesspool or similar private sewage disposal facilities shall be abandoned and filled with suitable material within ninety (90) days of the aforesaid connection.

SECTION 7-02-001-0029 PRIVATE SEWERAGE SYSTEMS; AUTHORITY OF DIRECTOR OF HEALTH DEPARTMENT:

No statement contained in the preceding two (2) sections shall be construed to interfere with any additional requirements that may be imposed by the Health Departments of the State and County.

SECTION 7-02-001-0030 PERMIT REQUIRED:

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Engineering Department.

SECTION 7-02-001-0031 APPLICATION FOR BUILDING CONNECTION:

Each person desiring a building connection shall make application to the Finance Department. All applications for building connections to be constructed by Utilities Department shall be accompanied by the current fee for such work. (Ord. 1104, 1 2-4-79)

SECTION 7-02-001-0032 DIRECTOR OF UTILITIES TO APPROVE DESIGN NUMBER, LOCATION, SIZE AND CONSTRUCTION OF BUILDING CONNECTIONS:

The design, number, location, manner of connection and size of all building connections shall be subject to the approval of the Utilities Director. The Department will install all building connections less than eight inches (8") in diameter, except as provided elsewhere in this Chapter. All building connections eight inches (8") in diameter or larger shall be installed by a private contractor at the property owner's expense. Building connections shall be installed on lateral branch and main sewers only, unless specifically authorized and approved by the Utilities Director. All building connections shall be constructed in accordance with standards and specifications on file in the Engineering Department. (Ord.1112, 2-4-80)

SECTION 7-02-001-0033 SPECIAL PROVISIONS FOR INSTALLING BUILDING CONNECTIONS IN NEW SUBDIVISIONS AND DEVELOPMENTS:

In new subdivisions or developments where public sewer extensions are authorized by the City and constructed at the developer's expense, the City may authorize the developer or his agent, if he so desires, to install building connections with "wyes" and connect the building sewers to the building connection under the following provisions: (Ord. 1104, 12-4-79)

- A. The construction of the public sewer, building connections, and connections of the building sewers to the building connection shall be under the supervision of a registered engineer holding registration in the State, who shall submit "as built transparency plans", bearing the registered engineer's registration seal and number, to the Engineering Department. It shall be the duty of the developer to require that all building connections, serving lots in the development upon which no buildings are constructed, be effectively sealed until such time as buildings will be constructed on the lots left vacant. Such sealed connections shall be inspected and approved by the City Engineer before being backfilled and shall be designated for location on the "as built plans". The effective seal shall consist of a vitrified clay stopper inserted in the bell of the sewer extending to the property line from the public sewer; such stopper shall be jointed according to the standard details on file in the Engineering Department. (Ord. 1112, 2-4-80)

- B. Before any building sewer construction is commenced, plumbing permits must be obtained by the developer or his agent from the Building Official. (Ord. 1104, 12-4-79)
- C. When the "as built plans" are prepared by the Engineering Department, a record of the building connections will be made.

SECTION 7-02-001-0034 RECORDS TO BE KEPT BY ENGINEERING DEPARTMENT:

The Engineering Department shall keep a record of all building connections made, the purpose for which they are to be used. (Ord. 1112, 2-4-80)

SECTION 7-02-001-0035 SEWER TAP FEE:

Each person, firm or corporation requesting a sewer tap to be installed by the City shall pay the fee as hereby established:

Four inch (4") sewer tap \$ 275.00

Six inch (6") sewer tap \$275.00 (Ord. 1681, 12/4/90)

Procedures for Owner/Contractor:

Owner/contractor shall pay buy-in charges if applicable.

Owner/contractor shall obtain a permit from the Engineering Department and pay a permit fee before starting excavation,

When notified by the Flagstaff Blue Stake Center, City Utilities Department personnel will locate the sewer main for owner/contractor.

Owner/contractor excavates site and shores trench if necessary, shoring shall be determined by Utilities Department personnel.

Owner/contractor provides barricades, lights and traffic control as determined by the Engineering Inspector.

Wastewater collection personnel installs the saddle and makes the tap in the sewer main.

Owner/contractor installs building connection to the saddle and completes the connection.

Engineering Inspector inspects the owner/contractor's work and approves if work is completed satisfactorily.

Owner/contractor compacts and backfills trench, replaces pavement if necessary.

Final inspection is done by the Engineering Inspector.

Approval (permit sign-off) is made by the Engineering Inspector.

Owner/contractor shall not tap the main sewer at any time. (Ord. 1339, 11-20-84)

(Ord. No. 1681, Amended, 12/04/90)

SECTION 7-02-001-0036 SEWER USER CHARGES:

In order to provide for the protection of the public health, safety and welfare of the citizens of Flagstaff, a system of charges for sewerage use services is hereby established.

SECTION 7-02-001-0037 THE COLLECTION OF USERS CHARGES SHALL BE UNDER THE DIRECTION OF THE CITY'S FINANCE DIRECTOR:

The Finance Director is authorized to collect all user charges, industrial cost recovery charges and all other charges prescribed by this Chapter. (Ord. 1104, 12-4-79)

SECTION 7-02-001-0038 RATE ESTABLISHMENT AND REVIEW PROCEDURE:

- A. Rates established by ordinance of the City Council shall be based upon the City's determination of the cost of rendering sewerage services. The rates shall be established to provide for adequate funding for operation and maintenance of sewage works as required by the Environmental Protection Agency. The Council may also consider the funding of debt service, capital replacement, capital improvements and other costs through user charges.
- B. In addition to other pertinent factors deemed relevant by the City Council, the rate schedules adopted by the City Council may include the following cost factors:
1. Appropriate indirect costs of the Department and other City departments in rendering sewer related services such as purchasing, accounting, billing, administration, equipment maintenance, and other indirect costs.
 2. Annual debt service charge for the retirement of sanitary sewer bonds.
- C. Rate schedules shall distribute cost based upon the volume of wastewater discharged as well as BOD and SS of the wastewater discharged.
- D. The method to be used for determining user charges expressed in a formula is:

$$\text{Rate} = \frac{\text{Total Cost* of Flow}}{\text{Total Flow}} + \frac{\text{Total Cost* of BOD or COD}}{\text{Total BOD or COD}} + \frac{\text{Total Cost * of SS}}{\text{Total SS}}$$

User Charge = Rate X User's Units of Contribution

*Cost = Operation and Maintenance plus Replacement Cost

The basis for the units of contribution shall consider volume (as determined by water meters or estimates). (Ord. 1554, 3/1/88)

- E. Financial Management System. The user charge system shall include an adequate financial management system that will accurately account for O&M revenues and expenditures associated with the treatment works. The accounting system must segregate O&M revenue and expenditure from other wastewater revenue and expenditures to assure adequate revenue to properly operate and maintain the treatment works. All revenues collected for operation and maintenance (including replacement) shall be deposited in a separate fund. This fund shall have two accounts, one for O&M and one for replacement. (Ord. 1554, 3/1/88)
- F. Notification. All users of the system shall be notified at least annually in conjunction with a regular billing for sewage service as to:
 - 1. The rate schedule in effect.
 - 2. The part of user charges attributable to wastewater treatment services.
- G. Inconsistent Agreements. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the City and users (including industrial users, special districts, other municipalities, or Federal agencies or installations) which are inconsistent with the requirements of section 204(b)(1))A) of the Clean Water Act and these regulations.
- H. Toxic Pollutants and Pollutants in Excess of Specified Limits. The user charge system shall provide that each user which discharges any toxic pollutants or others which cause an increase in the cost of managing the effluent or the sludge of the City's treatment works shall pay for such increased costs by the following formula:

$$\text{Surcharge} = \frac{\text{Total Cost* of Any Pollutant}}{\text{Total of Any Pollutant}}$$

*Cost = Operation and Maintenance Plus Replacement Costs (Ord. 1554, 3/1/88)

- I. Wastewater Treatment By-Products. All revenue from the sale of treatment related by-products shall be used to offset the cost of operation and maintenance. User charges shall be proportionally reduced for all users. Total annual revenues received from the sale of a by-product shall be credited to the treatment works O&M cost no later than the fiscal year immediately following their receipt. (Ord. 1554, 3/1/88)

(Ord. No. 1554, Amended, 03/01/88)

SECTION 7-02-001-0039 SEWER USE CHARGES, CAPACITY CHARGES:

The sewer user charges to be charged by the Finance Department to all users and to all others that have reasonable access to sewer mains is presented in the following schedule:

The City Council may adjust these rate schedules as they deem necessary.

A. Sewer User Charges:

RATE EACH PER MONTH*

Customer Classes	Monthly Rate
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Residential:

Single-family	2.73
Multiple and mobile home (per unit)	2.73

Commercial, Industrial and Institutional:

Hotels, motels	3.58
Restaurants	4.42
Industrial laundries	3.92
CarWashes	2.26
Laundromats	2.46
Commercial	2.64
Manufacturing Plants	2.67
Pet Food Manufacturers	7.31
Soft Drink Bottlers	6.41

Northern Arizona University	2.35
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Waste haulers (charge per 1,000 gallons)	80.00
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Restaurant grease (charge per 100 gallons)	7.00
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Other treatment plant sludge (charge per 100 gallons)	8.00
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Mud sump waste (charge per 100 gallons)	25.00
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Waste material delivered to the treatment plant at
Times other than 8:00AM to 4:00PM or weekends
or holidays shall be assessed an after hours fee of 35.00

Sewer surcharges:

Biochemical Oxygen Demand - per pound concentrations over 300 milligrams per liter	\$.2703
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Suspended solids - per pound for concentrations over 350 milligrams per liter	\$.1343
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If a customer's discharge exceeds the BOD and TSS limit already included in the monthly rate calculation for that customer class listed above, then sewer surcharges may be added as a condition to the customer user permit, compliance agreement or administrative order.

BOD and TSS included in monthly rates for specific customer classes are as follows:

Customer Class	BOD mg/l	TSS mg/l
Car Washes	20	150
Laundromats	150	110
Commercial	200	175

Manufacturing Plants	200	175
Pet Food Manufacturers	1800	1100
Soft Drink Bottlers	1800	400

*Flat rate charge (dollars/1,000 gallons) for residential based on winter quarter average water use. Other customer classes based on actual water use (dollars/1,000 gallons). (Ord. 1944, 05/20/97)

In the case of one meter serving a user that has different classifications of business, the Utilities Director shall be authorized to adjust the rate per one thousand (1,000) gallons based upon the contribution of each classification.

The user shall be determined according to customer class (see rate schedule above). (Ord. 1849, 12/06/94)

B. Capacity Charges

1. A capacity charge, as prescribed below, shall be assessed upon:

- a. initial connection to the municipal sewer system, or
- b. any subsequent expansion or modification of the user's building or facility which results in an increased contribution to the sewer system from:
 - (i) for single or multi-family residential users, an increase in the number of residential units, or
 - (ii) for commercial or industrial, users, an increase in the number of fixture units, or
 - (iii) for industrial users, any change in operations resulting in a 20% or greater increase in billable volume as measured on an annual basis.
 - (iv) a change of use of the property whereby an increased volume of discharge to the sewer system occurs. (Ord. 1809, 06/15/93)

2. The capacity charges for the various types of users are as follows:

Customer (capacity) Charge, dollars

Residential

Single family residential and townhomes (one unit)

(effective 1-1-91)	(effective 1-1-03)	(effective 1-1-04)	(effective 1-1-05)	(effective 1-1-06)
1,100	1,475	1,850	2,200	2,600

Multiple residential, condos & mobile home (one unit)

(effective 1-1-91)	(effective 1-1-03)	(effective 1-1-04)	(effective 1-1-05)	(effective 1-1-06)
775	1,300	1,600	1,900	2,300

Non-residential charge till 1-1-03

Hotel, motel (10 fixture units)	1200
Restaurant (10 fixture units)	2100
Other commercial, institutional (10 fixture units)	650
Industrial laundry	13200
(1,000 gallons/day or 10 fixture units, whichever is highest)	1440
Industrial	6050
(1,000 gallons/day or 10 fixture units, whichever is highest)	650

When a change of use occurs that increases the volume of discharge to the sewer system, regardless of whether a change in ownership has taken place, the capacity charge shall be based on the capacity charge for the new use less the existing capacity charge rate for the previous use. No refund shall be made in the case of reduced volume of discharge from a change of use. (Ord. 1809, 06/15/93)

Non-residential	(effective 1-1-03)	(effective 1-1-04)	(effective 1-1-05)	(effective 1-1-06)
Meter size				
5/8" or 3/4"	\$1,475	\$1,850	\$2,200	\$2,600
1"	\$2,439	\$3,058	\$3,638	\$4,300
1-1/2"	\$4,879	\$6,119	\$7,277	\$8,600
>1-1/2"*	\$5.38	\$6.75	\$8.03	\$9.49

* gallon per day of estimated flow

Where the capacity charge is based on volume, said charge will initially be calculated based on an estimate of flowage to be submitted in writing by the customer and agreed upon by the City. The capacity charge will be adjusted based upon the volume of the highest consecutive 12 month period for the 36 months immediately following commencement of service for assessment of an additional capacity charge.

The Department shall review all industrial user accounts on an annual basis and assess an additional capacity charge when the annual average billable volume increased by 20% or more. The charge is calculated at the current volume less previously assessed capacity charge recalculated at then current rates.

Wastewater capacity associated with similar user classes may be transferred from one location to another with the approval of the Department. The location from which the wastewater capacity was transferred shall be without wastewater capacity until a subsequent purchaser of said location establishes a new capacity and fees for the new

use. The transferor of the wastewater capacity is required to notify any subsequent purchaser of the property, which no longer has wastewater capacity, that such capacity does not exist. The City shall record an agreement between the transferor and the City with the County Recorder against the property without wastewater capacity rights. The agreement shall reference the legal description of the property without wastewater capacity and clearly indicate that wastewater capacity rights do not exist.

Exemption and Payment of Capacity Charges. Structures with a minimum of stem wall, and first floor existing on December 1, 1979, shall be exempt from the capacity charges. As of that date, the capacity charge is immediately due and payable upon, receipt of an application for connection to the sewerage system. If connection is made to the sewerage system without appropriate permit, the capacity charge is immediately due and payable upon the earliest date that such permit was required. No connection to the sewerage system shall be made without the proper permit and payment of the capacity charge except as provided below for installment payments. (Ord. 1796, 03/16/93)

Capacity fees may be paid for by installment payments in accordance with the following conditions:

1. A capacity fee that totals an amount greater than \$150,000 and less than \$250,000 may be paid as follows:
 - a. No less than 1/3 of the total capacity fee due is to be paid upon receipt of the application for connection to the sewerage system.
 - b. The balance due of the capacity fee is to be paid in equal monthly installments over no more than thirty-six (36) months to include an interest rate calculated to be the prime rate + 1/2% at the time of the application.
 - c. The customer agrees to secure the balance due to the City by a letter of credit drawn in favor of the City, or in any other form of security satisfactory to the City Manager, City attorney and Finance Director.
2. A capacity fee that totals an amount greater than \$250,000 may be paid as follows:
 - a. The capacity fee may be paid in equal monthly installments over a time period that shall not exceed fifteen (15) years to include an annual rate of interest equal to the sum of the prime rate + 1/2% that exists at the time of the connection to the sewerage system.
 - b. The customer agrees to secure the balance due to the City by a letter of credit drawn in favor of the City, or in any other form of security satisfactory to the City Manager, City Attorney, and Finance Director. (Ord. 1944, 05/20/97)
3. For industrial capacity fees greater than \$25,000 the City Council may consider reduced initial payments and/or extended time periods

for payment. Consideration shall be based on the following criteria and other criteria the City Council may wish to include:

- a. Economic impact
- b. Community impact
- c. Environmental impact
- d. Desirability
- e. Financial viability

Requests for reduced initial payments and/or extended time periods for the payment of industrial sewer capacity fees shall be made in writing to the City Utilities Director for consideration by the City Council. Requests shall address the aforementioned criteria and shall be subject to the following:

- a. No less than \$25,000 of the total capacity fee is due to be paid upon receipt of the application for connection to the sewerage system.
- b. The balance of the capacity fee shall be paid in equal monthly installments for a period of up to thirty years as requested by the industrial customer and approved by the City Council. A written agreement shall be executed between the City and the customer which shall include an interest rate as recommended by the City Manager and City Treasurer and approved by the City Council of the application.
- c. The industrial customer agrees to secure the balance due to the City by a letter of credit drawn in favor of the City or in any form of security satisfactory to the City Treasurer.

C. Special Rules for Application of Surcharges

The following special rules shall pertain in applying the surcharges described in Section 0038.H of this Chapter and Subsection A of this Section 0039:

1. Biochemical Oxygen Demand

- a. In the event that an Industrial User's wastewater shall exhibit concentrations of BOD exceeding 400mg/l, then the surcharge for concentrations from 400mg/l to 500mg/l shall be multiplied by two (2);
- b. in the event that an Industrial User's wastewater shall exhibit concentrations of BOD exceeding 500mg/l, then the surcharge for concentrations from 400mg/l to 500mg/l shall be multiplied by two (2), and the surcharge for concentrations of BOD exceeding 500mg/l shall be multiplied by three (3).

2. Total Suspended Solids

- a. In the event that an Industrial User's wastewater shall exhibit concentrations of TSS exceeding 450mg/l, then the surcharge for concentrations from 450mg/l to 550mg/l shall be multiplied by two (2);
 - b. In the event that an Industrial User's wastewater shall exhibit concentrations of TSS exceeding 550mg/l, then the surcharge for concentrations from 450mg/l to 550mg/l shall be multiplied by two (2), and the surcharge for concentrations of TSS exceeding 550mg/l shall be multiplied by three (3).
3. All surcharges imposed by this Chapter shall be based on the average of all sampling conducted during the applicable billing period over the total flow for such period. (Ord. 1981, 09/15/98)

(Ord. No. 1590, Amended, 11/1/88; Ord. No. 1681, Amended, 12/04/90; Ord. No. 1727, Amended, 12/03/91; Ord. No. 1796, Amended, 03/16/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1825, Amended, 12/07/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1849, Amended, 12/06/94; Ord. No. 1945, Amended, 05/20/97; Ord. No. 1944, Amended, 05/20/97; Ord. No. 1950, Revised, 08/05/97; Ord. No. 1981, Amended, 09/15/98)
(Ord. 2002-05, Amended, 05/21/2002; Ord. 2000-24, Amended, 10/03/2000; Ord. 1999, Amended, 07/06/1999)

SECTION 7-02-001-0040 SEPTIC TANK AND SCAVENGER WASTE HAULERS:

- A. Authorized Waste Haulers: Only those persons or companies whose principal source of business is within Coconino County shall be authorized to discharge scavenger wastes into the sewerage system.
- B. Permit to Discharge: All authorized persons or companies, as defined in (A) above, wishing to discharge scavenger wastes into the sewerage system must first obtain a scavenger waste discharge permit from the Finance Director. Permit applications shall include information on the company ownership, locations, identification, license number of all trucks to be used for delivery of waste to City sewerage facilities and any other pertinent information as may be desired by the City. It shall also include truck capacity and other information pertinent to discharge to the sewerage system. Permit applications shall be signed by a responsible owner or manager of the company applying for permission to discharge. All waste haulage equipment operated by companies with permits shall be registered with the Finance Director and shall be identifiable by display of the license plate number. (Ord. 1693, 5-7-91)
 1. The permit provided for in this Section of the Chapter shall be issued by the Finance Director to all applicants who comply with the terms and conditions set forth in this Section upon the payment of a permit fee, as follows:
 - a. For each vehicle utilized for the transportation of wastes for disposal into the sewerage system: five dollars (\$5.00)
 - b. The permit issued as provided for in this Section shall expire one year after the date of issue. It shall be the responsibility of the hauler to seek renewal of their permit

annually, at least 30 days prior to the expiration date of the previous permit. (Ord. 1693, 5-7-91)

- c. Revocation of permit: Noncompliance with any part of this Section or subsequent regulations shall subject the permit holder to revocation of permit to utilize the services of the City sewerage system for disposal of scavenger wastes. Reissuance of permit to discharge after revocation shall be at the discretion of the Utilities Director and may be subject to such conditions as he/she deems appropriate. (Ord. 1693, 5-7-91)
- C. Regulations: The Utilities Director may establish such regulations as are deemed necessary to control the discharge of scavenger wastes so as to prevent incidences of overloading, interference or pass-through at the Wastewater Treatment Plant and/or interference, damage, etc., to the wastewater collection systems. All discharges shall comply with the Prohibited Substances restrictions set forth in Section 7-02-001-09 of the Code. The Wastewater Treatment Plant does not accept hazardous waste as defined by the Resource Conservation and Recovery Act and the Code of Federal Regulations.
- D. Each load to be discharged into the City wastewater system, shall be manifested in a form and format provided by the City of Flagstaff.
- E. Provisions of Services: Normal wastes from septic tanks, sewage treatment plants, etc., may be discharged routinely. Permission to discharge other wastes that are not readily biodegradable or are not known to be compatible to the operations of wastewater treatment plants shall be refused. Special request must be made to the Utilities Director prior to discharge of any materials of questionable acceptability. Some specific reasons for refusal of service shall include:
 - 1. Material deleterious to treatment plant operation or operators such as oils, greases, gasoline, toxics, volatile solvents, sand, metallic particles, or paints.
 - 2. Materials which would cause unusual expense in handling and treatment (i.e. blood, etc.), unless prior arrangements have been made for the payment of additional cost of service.
 - 3. Materials which would inhibit the performance of the treatment plant such as acids, plating wastes, or toxic materials.
- F. Fees and Charges: Fees and charges for treatment of formal scavenger wastes shall be based on the costs of providing such services and on the expected overall average characteristics of such discharges, which shall be designated as five thousand four hundred (5,400) mg/l BOD and twelve thousand (12,000) mg/l SS. (Ord. 1693, 5-7-91)
- G. The waste hauler will be financially responsible for any damage to, or interference with the POTW, or for any expense to the City (including testing) caused by the discharge from the hauler. The waste hauler and/or generator will be charged for all expenses in monitoring and handling their discharge. (Ord. 1693, 5-7-91)

- H. Waste haulers may not discharge unless a plant operator is present and has approved the discharge. The operator may refuse to accept any discharge if it is suspected to contain wastes which are considered unacceptable to the City Wastewater Treatment facilities. (Ord. 1693, 5-7-91)
- I. The waste hauler shall have sampling outlets (approved by the City Utilities Department) on each truck for proper sampling of contents. (Ord. 1693, 5-7-91) The waste hauler shall be subject to random sampling/monitoring by the City.
- J. Waste haulers will position their trucks at the direction of the plant operator to prevent spills. Any traces of the hauler's discharge must be removed by the hauler immediately.
- K. The discharge of scavenger wastes shall be permitted only at the locations and during such hours as shall be established by the Utilities Director. The discharge of scavenger wastes to the sewerage system at any other location is forbidden.
- L. Septic Tank And Scavenger Waste Haulers shall be subject to the enforcement guides set forth in Section 7-02-001-0021 of the Code.
- M. Provision of false information by either the generator or the hauler shall also be considered a violation of this Code and subject to the provisions of Sections 7-02-001-0019 and 7-02-001-0021 of this Code.
(Ord. 2003-04, Amended, 04/04/2003)

SECTION 7-02-001-0041 SEWER RATES TO BE ADDED TO WATER BILLS:

All sewer user charges to be added to and collected with the bills as rendered for water by the Finance Department, and all of the rules and regulations promulgated by the Finance Department shall apply to, and be effective in, the collection of such sewer service charges.

SECTION 7-02-001-0042 WHEN BILLS PAYABLE; DISCONNECTION OF SERVICE FOR FAILURE TO PAY; RECONNECTION FEE:

All bills for sewer service shall be due and payable on the billing dates of the various districts, and if not paid within thirty (30) days thereafter will be considered delinquent and the sewer service may be discontinued without notice. In the event extraordinary costs are incurred by the City to discontinue the sewer service, such costs shall be paid by the customer before service is continued. (Ord. 1104, 12-4-79)

SECTION 7-02-001-0043 DETERMINATION OF WASTEWATER QUANTITY AND BILLINGS: NONRESIDENTIAL:

- A. In the absence of suitable data to make a determination for non-residential users as to the amount of water discharged to the sewer system, the sewer user charge shall be based on the amount of water supplied to the premises. The Director of Utilities may require or permit the installation of acceptable additional water or sewer meters at

such party's expense and in such a manner as to determine the quantity of water actually entering the sewer system, in which case, the quantity of water used to determine the sewer charge shall be the quantity of water actually entering the sewer system as so determined. The meter (or meters) must measure the total flow unless another method has been approved by the City. (Ord. 1693, 5-7-91)

- B. It shall be the responsibility of each user, who chooses or is required to perform the purchase and installation of such meters, to notify and gain approval of the City of Flagstaff Utilities Department. Upon initial written verification, by a qualified individual, that the meter has been installed and is functioning accurately and efficiently, the user assume daily operation and maintenance of such meters. (Ord. 1676, 10/2/90)

If at any time, the City of Flagstaff Utilities Department determines that such meter is insufficient for the purpose it is intended, whether because of inability to repair, increased discharge rate of wastestream, etc., the user shall replace the meter or have modifications performed to the existing meter, at the user's expense and in such a way that is considered satisfactory to the City Utility Director. (Ord. 1676, 10-2-90)

- C. All Significant Industrial Users, have a City-approved sewer flow meter or other City approved means of measuring their effluent. This meter be equipped to provide a permanent record of the flow measurements. All records of the flow be kept for a minimum of three (3) years and must be available to the City. (Ord. 1693, 5-7-91)
- D. It shall be the responsibility of all Industrial Users who are required or choose to install flow measurement devices to provide a security system which would provide the City with unrestricted access to such meter, yet at the same time provide protection from User access unauthorized by the City, tampering, vandalism, the elements or any other factor which may inhibit accurate flow measurement of the wastestream. (Ord. 1693, 5-7-91)
- E. The Industrial User shall keep their wastewater collection lines free from debris, turbulence or any other entity that may inhibit the accurate measurement of sewer flow. (Ord. 1693, 5-7-91)

RESIDENTIAL:

- A. Sewer user charge be based on the average monthly water billed to each customer during the preceding December, January, February and March and shall represent sewage flow for full-time residential customers. (Ord. 1590, 11-1-88)
- B. If the Director determines that adequate water meter information is not available for billing a residential customer as described above, then the customer be charged the average monthly billing for that user class. (Ord. 1590, 11-1-88)
- C. Upon approval of the Director, any individual user may, at his own expense and subject to the regulations of the Department, install a separate meter in order to determine the quantity of water actually entering the sewer system and future sewer charges shall be limited to

that water actually entering the sewer system as so determined by the Director. (Ord. 1590, 11/01/88)

- D. If within 10 days of billing, a customer files a written complaint with the Director alleging that a significant portion of his water usage does not enter the sewer system, the Director, in accordance with written appeals procedure, provide an opportunity for the customer to present his supporting documentation to an employee designated by the Director to hear complaints. (Ord. 1590, 11/01/88) (Ord. No. 1590, Amended, 11/1/88; Ord. No. 1676, Amended, 10/02/90; Ord. No. 1693, Amended, 05/07/91)
- E. Upon approval of the Director, metered water usage may be used to determine the sewer use charge when it can be shown to be more accurate than using the average winter water usage. (Ord. 2003, 09/21/99)
(Ord. 2002-08, Amended, 07/16/2002; Ord. 2002-05, Amended, 05/21/2002; Ord. 2003, Amended, 09/21/1999)

SECTION 7-02-001-0044 RESERVED FOR FUTURE USE:

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0045 PAYMENT OF BILLS AND CHARGES:

- A. All notices sent out by the City regarding sewer user accounts, and all notices regarding any other matter pertaining to the user of the City sewer system shall be sent to the house and street number of such property. To insure proper delivery of notices, all errors in house numbers should be promptly reported to the Finance Department.
- B. The sewer account and bill shall distinguish the amount of the sewer user charge from any industrial cost recovery charge, if applicable.
- C. All rates and service charges are payable when rendered and shall be paid by the due date. If the total of such bill is not received by the City within five (5) days after the due date the consumer shall be charged an additional \$5.00 non-refundable late payment penalty fee. Consumers on a payment plan that has been approved by the Utilities Department may be exempted from the late payment penalty fee.

All charges shall be considered delinquent thirty (30) days after bill date. If the total of such bill is not paid within ten (10) days after the date of delinquency (30 days from bill date), a notice may be placed at the service address notifying of the past due amount and service charge which must be paid within 24 hours. After 24 hours, the water or sewer service may be disconnected from the premises of the delinquent consumer. The total amount of the bill due and any deposit, if such deposit is required, shall be collected before again providing sewer service or water service. Any closed, delinquent account requiring special collection effort may be assessed a delinquent collection charge to cover the additional cost as established by the Finance Director. (Ord. 1849, 12/06/94)

- D. A consumer's water or sewer service may be disconnected for nonpayment of a bill for service rendered at a previous location served by the Finance Department, provided such bill is not paid within thirty (30) days after

the unpaid bill has been presented to the consumer at his new location.
(Ord. 1849, 12/06/94)

- E. Any expense caused to the City for the repair or replacement of damaged, stolen, tampered with or misused sewer or water facilities shall be charged against and collected from the person or persons who caused the expense.
- F. When a user of the water or sewer system has been notified of the amount of charges remaining due after the deduction of his security deposit, and payment for same has not been received, the Finance Director may assign the account to a bona fide collection agency. (Ord. 1849, 12/06/94)
- G. Before water or sewer service will be turned on to any premises all charges against the premises when due and payable to the City as required by this Chapter, or including any of the following items must have been paid; on account of labor supplied or materials furnished by the Utilities Department in the installation of service pipes connecting the premises with the City sewer mains, or for tapping the City sewer system; on account of water or sewer service previously supplied to the premises; whether used by the applicants or by some previous occupant of the premises; or on account of the assessment of any fine or penalty; or for turning water or sewer services off or on; or for repair or replacement of damaged, stolen or misused sewer works facilities.

(Ord. No. 1809, Amended, 06/15/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1849, Amended, 12/06/94)

SECTION 7-02-001-0046 NOTICE PRIOR TO DISCONNECT:

Before discontinuing water or sewer service for non-payment of any sewer user charge, deposit or other assessment provided for in this Chapter, the Finance Director shall give written notice to the person, of the discontinuance and an opportunity to appear before the Finance Director or his designee on any disputed matter relative to the discontinuance of sewer service. (Ord. 1104, 12-4-79)

SECTION 7-02-001-0047 SERVICE CONNECTIONS:

Every separate building to be provided with sewer service shall have its own separate sewer service connection to the City sewer main, except that two (2) or more buildings located on the same lot or on contiguous lots under the same ownership or property known as a court, apartment house or block covering more than one lot, may be provided sewer service through the same connection as long as the single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises to replace the indirect connection. No person having sewer service shall provide sewer service to any other sewer user, whether gratuitously or for a charge. (Ord. 1873, 06/20/95)(Ord. No. 1873, Enacted, 06/20/95)

SECTION 7-02-001-0048 RESERVED FOR FUTURE USE:

SECTION 7-02-001-0049 PERMITS REQUIRED FOR INDUSTRIAL USERS:

All Significant Industrial Users, as defined by this Chapter, Section 7-02-001-0011 (A) (1.) shall obtain a permit for connection and discharge to the City's sewer system from the Director of Utilities. (Ord. 1693, 5-7-91)
(Ord. No. 1693, Amended, 05/07/91)

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0050 INDUSTRIAL USER PERMITS:

- A. The Significant Industrial User shall make application for such permit, at least ninety (90) days prior to commencement of discharge, on a form provided by the Director of Utilities. An applicant shall pay a fee of twenty-five dollars (\$25.00), or current rate as determined by the City of Flagstaff for each application and thereafter be issued an Industrial Wastewater Discharge Permit which shall be valid for a period of five (5) years from the date of issuance or less as determined by the Director of Utilities. (Ord. 1693, 5-7-91)
- B. Upon expiration of such permit, an applicant who holds a valid wastewater discharge permit and is in compliance with the terms and conditions established by this Chapter, shall file an application for renewal of an industrial wastewater discharge permit, at least ninety (90) days prior to the expiration date of the previous permit, together with a fee of twenty five dollars (\$25.00) and, thereafter, shall be issued a renewed industrial wastewater discharge permit, which shall be valid for a period of five (5) years from the date of issuance of the renewal or less as determined by the Director of Utilities. (Ord. 1693, 5-7-91)
- C. The applicant submit the information contained in item (D) through (G) below and any other information requested by the City, at the time of submittal or the application will be rejected and the applicant required to resubmit with the appropriate fee. (Ord. 1693, 5-7-91)
- D. An applicant seeking an industrial wastewater discharge permit or renewal submit, as part of its application, the results of an analysis, compliant with Standard Methods, conducted by a laboratory certified by the State of Arizona Department of Health Services, of a representative daily composite sample of the effluent discharge from the applicant's plant. (Ord. 1693, 5-7-91)
- E. An applicant submit as part of its application for a permit, a discharge report which include, but not be limited to, the nature of process, volumes, rates of flow, production quantities, concentrations in the wastewater discharge and any other information that may be relevant to the generation of waste.
- F. An applicant , as part of its application for a permit, submit a plan showing the location and size of on-site sewers, sampling point, pretreatment facilities, City sewers and any other pertinent physical details.
- G. An applicant as part of its application for a permit list each product manufactured, the type, amount and rate of production and the chemical

components and quantity of liquid or gaseous materials stored on-site, even though they may not normally be discharged into the sewer system.

- H. In the event a producer of industrial waste which is authorized to make a connection to the City sewer for industrial waste disposal under the provisions hereof is sold, leased, or its operation is assumed or taken over by another person, firm or corporation other than that named in the permit, a new application for a permit shall be made by the new owner, lessee or operator. No permit issued under the provisions hereof shall be assignable and a violation of this provision shall be grounds for summary suspensions or revocation of such permit by the Director of Utilities.
- I. It shall be a condition of the permit that the City may at any time test any of the wastes being discharged by the company or plant for quality or quantity. A duly authorized City representative may enter the permittee's premises at any time during business or operational hours for the purpose of inspecting plant operations to estimate quality or quantity of wastes.
- J. It shall be a condition of the permit that the permittee shall install facilities, approved by the City Engineer at the permittee's expense for the purpose of the City's representative inspecting, observing and sampling representative flows in accordance with Section 7-02-001-0017 of this Chapter. (Ord. 1693, 5-7-91)
- K. It shall be a condition of the permit that additional periodic reports as may be required by the Director of Utilities to properly monitor the discharge of the industrial wastes, be submitted to the Director of Utilities.
- L. Issuance of an industrial wastewater discharge permit shall not release the permit holder from the obligation to comply with all other provisions of this Chapter.
- M. The City may change the conditions of any permit from time to time as may be necessary in order to comply with requirements of Federal or State regulations. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91)

(Ord. 2002-08, Amended, 07/16/2002)

SECTION 7-02-001-0051 PERMITTEE REQUIREMENTS:

- A. Each permittee shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Chapter. If such discharge may occur, permittee must report it to the Director of Utilities as described in Section 7-02-001-0013. (Ord. 1693, 5-7-91)
- B. In order that officers, agents and employees of permittees will be informed of the City's requirements, permittees shall make available to their employees copies of this Chapter together with such other wastewater information and notices which may be furnished by the City from time to time for the purposes of improving and making more effective water pollution control. A notice shall be furnished and permanently posted on the permittee's bulletin board advising officers, agents and employees who to call in case of an accidental discharge in excess of the limits authorized by the permit. (Ord. 1693, 5-7-91)

- C. Any possible connection or entry point for a hazardous and/or prohibited substance to the permittee's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substances. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

SECTION 7-02-001-0052 RESERVED FOR FUTURE USE:

SECTION 7-02-001-0053 RESERVED FOR FUTURE USE:

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0054 RESERVED FOR FUTURE USE:

(Ord. 1236, 11-29-82)

SECTION 7-02-001-0055 RESERVED FOR FUTURE USE:

SECTION 7-02-001-0056 RESERVED FOR FUTURE USE:

(Ord. 1236, 11-29-82)

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0057 RESERVED FOR FUTURE USE:

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0058 RESERVED FOR FUTURE USE:

SECTION 7-02-001-0059 SERVICE OUTSIDE CITY LIMITS:

- A. For all places outside the corporate limits of the City not mentioned in this Chapter where sewer service is rendered by the City, and for which no rate is specifically fixed, the rate to be charged, including a connection charge, shall be as fixed by the City Council.
- B. City sewer service offered to users outside the City limits shall be offered by the City subject to compliance by the users with the terms of this Chapter.

(Ord. No. 1693, Repealed, 05/07/91)

SECTION 7-02-001-0060 RESPONSIBILITY FOR ENFORCEMENT:

- A. The City's Director of Utilities or authorized deputy, agent, or representatives shall have authority over all field operations of the City's wastewater treatment and collection system, including flow test measurements, quality of waste, service connections, line construction plus the operation and maintenance of all wastewater facilities. (Ord. 1723, 4/7/92) (Ord. 1950, 08/05/97)
- B. The City's Director of Finance or authorized deputy, agent, or representative shall have the authority to determine and collect all service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees. (Ord. 1723, 4/7/92) (Ord. 1950, 08/05/97)
- C. The rules and regulations of this Chapter are made for the benefit of the users of the City sewer system, for the protection of the sewer system, and to protect the quality of the effluent of the sewage treatment plants. Their enforcement shall in no case be willfully ignored by any City official or employee. (Ord. 1693, 5/7/91)

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1950, Revised, 08/05/97)

SECTION 7-02-001-0061 DISCONNECTION OF SERVICE:

The violation of any section of this Chapter shall be sufficient cause for the City to discontinue water or sewer service to any premises, and such service shall not be restored until such violations have been discontinued or eliminated and all outstanding charges paid. The discontinuance of sewer service shall be accomplished by physically cutting and blocking the building connection. A charge for disconnecting and reconnecting shall be paid to the Finance Department for reconnecting the sewer service. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91)

SECTION 7-02-001-0062 PENALTY AND FINES

RESERVED FOR FUTURE USE.

(Ord. 2002-08, Repealed and Replaced, 07/16/2002)

SECTION 7-02-001-0063 INTENT OF CHAPTER:

In order to meet the grant regulation requirements for Construction of Treatment Works established by E.P.A. at 40 CFR Part 30 and 40 CFR Part 35, the City is required by the Regional Administrator to have its user charge rates and ordinance approved and enacted before the treatment works constructed with grant funds are placed in operation. To satisfy this requirement, the City has this day enacted and approved this Chapter. It is the intent of the City Council that the rates and procedures required by E.P.A. be effective before the treatment works constructed with the grant are placed in operation. (Ord. 1104, 12-4-79)

**CHAPTER 7-03
CITY WATER SYSTEM REGULATIONS**

SECTIONS:

<u>7-03-001-0001</u>	APPLICATION FOR CONNECTION:
<u>7-03-001-0002</u>	APPLICATION FOR SERVICE:
<u>7-03-001-0003</u>	DEPOSIT REQUIRED:
<u>7-03-001-0004</u>	CONNECTION FEES:
<u>7-03-001-0005</u>	SERVICE CHARGES:
<u>7-03-001-0006</u>	AUTHORITY REQUIRED:
<u>7-03-001-0007</u>	MALICIOUS DAMAGE:
<u>7-03-001-0008</u>	ACCOUNTS PAYABLE:
<u>7-03-001-0009</u>	SEASONAL REQUEST TO DISCONTINUE:
<u>7-03-001-0010</u>	METERS:
<u>7-03-001-0011</u>	WATER RATES:
<u>7-03-001-0012</u>	WATER MAIN CAPACITY CHARGES:
<u>7-03-001-0013</u>	WATER REVENUE FUND:
<u>7-03-001-0014</u>	CITY WATER MAIN EXTENSION POLICY:
<u>7-03-001-0015</u>	WATER CONSERVATION:
<u>7-03-001-0016</u>	CROSS CONNECTION CONTROL:

SECTION 7-03-001-0001 APPLICATION FOR CONNECTION:

Every person requesting connection to the water system of the City shall first make application to the Water Department on such forms as the City shall prescribe and pay the fees and charges provided for herein. Connection may be made either by the Water Department or by a contractor duly licensed by the State of Arizona to perform such work. The work shall be done according to City specifications, and any contractor performing such work shall not cover such connection until the same shall have been inspected and approved by the Water Department. (Ord. 800, 5-25-71)

SECTION 7-03-001-0002 APPLICATION FOR SERVICE:

Every person requesting water service shall make application therefor on such forms as the City may prescribe, and the deposit and charge provided for herein shall be paid before such new service may commence. (Ord. 1073, 3-20-79)

SECTION 7-03-001-0003 DEPOSIT REQUIRED:

- A. Deposit Required: There shall be charged to all persons applying for water service to be provided to any premises, a non-interest bearing deposit of twenty five dollars (\$25.00) for residence service inside the City, twenty seven dollars and fifty cents (\$27.50) for residence service outside the City and for all other service, a non-interest bearing deposit equal to twice estimated amount of the monthly bill. Specific exemption from this provision shall apply to churches, nonprofit community organizations and other utilities. Additionally, persons who have qualified for a deposit refund pursuant to paragraph (B) below and have no other Municipal account delinquency shall be exempt from any deposit requirement for additional or new water service. (Ord. 1527, 11/03/87) New customers providing the City with a recent letter from a

present or previous utility supplier which shows a good payment history may be exempted from the deposit requirements.

- B. Deposit Refund: Except as provided below, a customer shall be entitled to a refund of deposits on hand either one year after the effective date of this Section or one year after the required deposit is deposited with the City, whichever occurs later. However, in the event a customer fails to make timely payment of a monthly billing, or allows any arrearage to accrue on the customer's account, then the customer shall not be entitled to a refund until the customer has first established a one-year record of timely payments with no arrearage.

If a customer should be issued a turn-off notice (appear on a cut-off listing) due to nonpayment, a new or additional deposit may be required. This deposit shall be the greater of either the basic deposit required under subsection (A) of this Section or twice the amount of the highest monthly billing during the preceding twelve (12) months.

No interest shall be paid by the City upon any deposit refund. (Ord. 1312, 07/03/84)(Ord. No. 1944, Amended, 05/20/97)
(Ord. 2002-05, Amended, 05/21/2002; Ord. 2000-03, Amended, 03/07/2000)

SECTION 7-03-001-0004 CONNECTION FEES:

Any person desiring a connection with any main or lateral of the water or reclaimed water system of the City shall first make application to the City Utilities Department, and pay the fees and charges specified for the size of the service desired. All water meters connected to the City water or reclaimed water system are, shall be and shall remain the property of the City. Upon payment of the specified fees to the Treasurer by the applicant, the Utilities Department shall, within a reasonable time, make the connection and install the meter. Connection fees shall be: (Ord. 1563, 05/17/88)

For Meter Size

5/8"x 3/4"	\$1,000.00
1"	1,130.00
1 1/2"	1,350.00
2"	1,650.00

All others Cost of meter, fittings
and labor, plus overhead

(Ord. 1681, 12/04/90)

Connections made by a contractor as provided for in Section 7-3-1 hereof, where service lines have been previously installed and the City is required only to supply and install the meter, shall be subject to the following fees in lieu of the schedule shown above.

For Meter Size

5/8" x 3/4"	\$ 210.00
1"	390.00
1 1/2"	790.00
2"	940.00

All others Cost of meter, fittings
and labor, plus overhead

(Ord. 1681, 12/04/90)

For connections and meters larger than two inches (2"), the following deposit must be paid in advance before beginning the connection. Where the deposit is less than the actual cost, the difference will be billed and shall be paid by the applicant prior to service being established for such connection. Where the deposit is more than the actual cost, the difference shall be refunded within a reasonable period of time.

For Meter Size

3"	\$3,000.00
4"	4,000.00
6"	6,000.00
All others	Cost of meter, fittings and labor, plus overhead

All water taps or connections made outside the corporate limits of the City shall be 110% of the above charges, fees and/or deposits.

The connection fee for automatic read meters shall include an additional \$130.00 for the meter interface unit and the meter adder. (Ord. 1944, 05/20/97)

(Ord. No. 1563, Amended, 05/17/88; Ord. No. 1681, Amended, 12/04/90; Ord. No. 1944, Amended, 05/20/97)
(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0005 SERVICE CHARGES:

In addition to the other charges and fees required by this Chapter, the following service charges shall apply:

Service

New customer turn-on	\$18.00
Collection Charge or Non-Payment	18.00
Emergency turn-off or turn-on at customer's request (each)	
During working hours	30.00
During nonworking hours	60.00
Meter testing 3/4"	50.00
Above 3/4"	Actual Cost
(Ord. 1849, 12/06/94)	
(Ord. No. 1849, Amended, 12/06/94)	
(Ord. 2002-05, Amended, 05/21/2002)	

SECTION 7-03-001-0006 AUTHORITY REQUIRED:

It shall be unlawful for any person to turn on and furnish water service or authorize or direct another to do so without authority from the Utilities Department ; and any person violating the provisions hereof shall be guilty of a misdemeanor and incur a penalty in the sum of one hundred-fifty dollars (\$150.00)

(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0007 MALICIOUS DAMAGE:

It shall be unlawful for any person intentionally to break, deface, tamper with or damage any meter, hydrant, valve, pipe or other water system appliance or fixture, or in any other manner interfere with the operation of any part of the water system of the City. It shall be unlawful for any person, with intent to injure or defraud, to connect any pipe, tube or other instrument with any main or service pipe for conducting water belonging to the City, for the purpose of taking water from such main or service pipe without the permission or authority of the Water Department. (Ord. 800, 5-25-71) It shall be unlawful to permit any coupling, pipe, fitting, or tank not dedicated for potable water use to come into contact with public water facility dispensing hoses. Any person violating the provisions hereof shall be guilty of a misdemeanor and incur a penalty in the sum of one hundred-fifty dollars (\$150.00).

(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0008 ACCOUNTS PAYABLE:

All water accounts charges for water sold and furnished to customers by the City shall be due and payable at the office of the Treasurer during regular business hours as established by the Treasurer for the collection of such accounts, Monday through Friday, inclusive, holidays excepted. All water accounts shall be due and payable upon presentation by the office of the Treasurer of invoice statement therefor, and shall become delinquent thirty (30) days thereafter. If such charges are not paid within ten (10) days after such delinquent date, water service may be discontinued without notice. The Treasurer is hereby authorized to consolidate more than one charge for City services into one itemized statement of charges at appropriate billing intervals. (Ord. 1073, 3-20-79)

(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0009 SEASONAL REQUEST TO DISCONTINUE:

Every customer requesting the City to discontinue or shut off water service shall be charged the sum of fourteen dollars (\$14.00) as a service charge when water is again turned on for the same customer. (Ord. 1235, 11-29-82)

SECTION 7-03-001-0010 METERS:

All water furnished or sold by the City shall be delivered or supplied through meter only, and every separate building supplied with City water must have its own separate service connection and meter, except that two (2) or more buildings located on the same lot or on contiguous lots under the same ownership or property known as a court, apartment house or block covering more than one lot, may be supplied through the same connection and meter as long as the single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises to replace the in direct connection. No person having a water service connection shall otherwise furnish or deliver water to any other water user, whether gratuitously or for a charge. (Ord. 800, 5-25-71)

SECTION 7-03-001-0011 WATER RATES:

There shall be charged the following rates for all water furnished consumers and measured by meter on any service connection with City water mains for and during each monthly billing period:

- A. Inside City Limits: The following monthly charges shall be effective with bills rendered on and after January 1, 1991. Applicable sales taxes will be in addition to these charges. (Ord. 1681, 12/04/90)

Charge per one thousand (1,000) gallons of measured or estimated water use per month.

WATER RATE SCHEDULE

Service Charge:

Meter Size Inches \$	Monthly Charge
3/4	6.48
1	8.02
1-1/2	9.62
2	14.00
3	41.80
4	58.00
6	89.80
8	124.00
10	168.80
12	207.60

VOLUME CHARGE:

Monthly Water Use Gallons	Volume Charge \$/1,000 gal
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Single Family - Block Rate

First 5,000	2.83
Next 10,000	3.32
Over 15,000	4.71

Multi-family, Mobile home, Commercial, Church and Schools	2.97
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Northern Arizona University	2.62
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Manufacturing	2.70
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Lawn Meters

Same as single family residential rate

Hydrant Meters (Effective 1/1/03)	5.75
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PRIVATE FIRE PROTECTION:

Connection Size Inches	Monthly Charge \$
2	
4	22.68
6	44.23
8	70.32

Rates for water sold or furnished to customers for use outside the City limits shall be one hundred ten percent (110%) the rates for water sold or furnished for use inside the City. (Ord. 1825, 12/07/93)

B. Special Rates:

1. Standpipes: Effective July 1, 1986, the rate for water from the standpipes shall be five dollars twenty five cents (\$5.25) per one thousand (1,000) gallons including applicable sales taxes. (Ord. 1449, 05/20/86)
2. Reclaimed Water (on-peak usage): The rates for the sale of reclaimed water to reusers, who do not provide their own on-site storage and are unable to accept reclaimed water on an "as-available" basis as determined by the City Utilities Director, shall be as described in this Section per one thousand (1,000) gallons; provided, however, that no contract existing prior to the adoption of this Section shall be affected by the below-stated price.

Reclaimed Water Agreements	35% of highest potable rate
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Reimbursement Agreements for Reclaimed Water - Rate is for time period prior to the date of the last reimbursement check payment made to reuser by the City,	75% of lowest potable rate
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Conversion Agreements for Reclaimed Water
- Rate is for time period prior to the complete recovery of costs incurred by the City for the conversion of reuser's private, potable water system to a reclaimed water system by extension of, and connection to, a public reclaimed water pipeline.

Reimbursement Agreements for Reclaimed Water - Rate is for time period after the date of the last reimbursement check payment made to reuser by the City.	35% of lowest potable rate
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Conversion Agreements for Reclaimed Water
- Rate is for time period after the complete recovery of costs incurred by

the City for the conversion of reuser's private, potable water system to a reclaimed water system by extension of, and connection to, a public reclaimed water pipeline.

City Departments Reuse	2.12 per 1000 gallons
Self-loading stations	1.00 per 1000 gallons

3. Reclaimed Water (off-peak/high volume usage): The rate for the sale of reclaimed water to high volume users (in excess of 50,000,000 gallons per year) who provide their own on-site storage and are able to accept water on an "as-available" basis shall be as described in this Section per one thousand (1,000) gallons; provided, however, that no contract existing prior to the adoption of this Section shall be affected by the price stated above.

Per 1000 Gals.

1st 50,000,000 gallons per year	\$1.00
2nd 50,000,000 gallons per year	.80
3rd 50,000,000 gallons per year	.60
4th 50,000,000 gallons per year	.40
Usage in excess of 200,000,000 gallons per year	.20

Bills shall be calculated on a calendar year basis. An estimate of annual usage and a calculation of expected annual cost shall be made at the first of each calendar year. The expected annual cost shall be billed in twelve equal monthly installments. The December bill shall reflect any adjustment to actual usage. (Ord. 1874, 06/20/97)

4. Special rates for customers who are not included in existing customer classifications and have usage characteristics different from other customers may be negotiated between the City and customer, without requiring an amendment to the City Code.
- C. Special Rates: If the initial bill of any new consumer or the final bill of any consumer shall show usage of less than one thousand (1,000) gallons for the initial or final billing period, the consumer shall be billed for the initial or final billing period at the prorated amount based on existing rates for each one hundred (100) gallons or fraction thereof.

Because fire hydrants are not designed to sustain continuous use and because such hydrants are part of the emergency fire protection system of the City, regular use of fire hydrants for water supply is discouraged. When an applicant for water to be delivered from a hydrant can show hardship if forced to obtain water from another source, and the request has been approved in writing by the City's Utilities Director, the

Department may install a meter on a fire hydrant for the use of such applicant, following payment of the required fee for such installation and use. The applicant shall be and remain responsible for payment to the City for all water used through such hydrant meter, and for the purpose of protecting himself may place a lock upon said meter.

The fee for installation and use of such hydrant meter shall be one hundred fifty dollars (\$150.00) for each ninety (90) days of use or fraction thereof. The rate of water delivered through a hydrant meter shall be at existing rate. In addition, a seven hundred dollar (\$700.00) deposit will be required to assure repair work on the meters and hydrants if needed. An additional three hundred dollar (\$300.00) will be required when a backflow prevention device is necessary. The deposits will be refunded if there is no damage sustained when the meter and/or backflow device is returned to the City. (Ord. 1235, 11/29/82)

(Ord. No. 1681, Amended, 12/04/90; Ord. No. 1727, Amended, 12/03/91; Ord. No. 1796, Amended, 03/16/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1825, Amended, 12/07/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1825, Amended, 12/07/93; Ord. No. 1874, Amended, 06/20/95; Ord. No. 1944, Amended, 05/20/97; Ord. No. 1972, Amended, 04/21/98)

(Ord. 2002-07, Amended, 07/16/2002; Ord. 2002-05, Amended, 05/21/2002; Ord. 2000-03, Amended, 03/07/2000; Ord. 1999, Amended, 07/06/1999)

SECTION 7-03-001-0012 WATER MAIN CAPACITY CHARGES:

The water main capacity charges for all new service connections to be charged by the Finance Department is presented in the following schedule:

A. A capacity charge, as prescribed below, shall be assessed upon:

1. initial connection to the municipal water system, or;

2. any increase in meter size or;

for customers with meters larger than 4", any subsequent expansion or modification of the user's building or facility which results in an increase service demand on the municipal water system or any other change which results in an increase in usage of 20% or greater as measured on an annual basis.

B. The capacity charges for the various types of users are as follows:

SCHEDULE FOR CAPACITY CHARGES

Capacity Charge	1991 (effective 1-1-91)	2002 (effective 1-1-03)
Meter Size		
5/8 x 3/4	1,300	1,440
1	2,210	2,400
1-1/2	4,290	4,700
2	6,890	7,600
3	13,000	14,300
4	21,710	23,900

All capacity charges for connections larger than four inches (4") shall be based on proration of mid range flow gallons per minute (gpm) of a 5/8 x 3/4" inch meter divided into the mid range flow of the meter to be evaluated. The resulting number shall be used as a multiplier times the capacity fee for a 5/8 x 3/4 inch meter to determine the large meter capacity fee. Meters will be sized using American Water Works Association Manual, AWWA No. M22. Sizing will be submitted to the City by the developer or owner for City review.

Where the capacity charge is based on volume, said charge will initially be calculated based on an estimate of flowage agreed upon by the City and the customer and will be adjusted based upon the volume of the highest consecutive 12 month period for the 36 months immediately following commencement of service or assessment of an additional capacity charge.

When the capacity charge results from an increase in meter size the charge shall be adjusted to the difference between the charge for the new size meter and the charge for the previous size meter.

- C. The Department shall review all customer accounts with meters larger than 4" on an annual basis and assess as additional capacity charge when the annual average demand increases by 20% or more. The additional capacity charge will be calculated using the recommended meter size by AWWA Manual No. 22 or equating to equivalent 5/8 x 3/4 inch meters but substituting for demand the difference between actual current demand, as determined by the previous 12 month average, and the demand used to calculate the previous capacity charge assessed upon the customer. (Ord. 1681, 12/04/90)

(Ord. No. 1681, Amended, 12/04/90; Ord. No. 1944, Amended, 05/20/97)
(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0013 WATER REVENUE FUND:

There is hereby created a fund to be known and kept as the "water fund". Said fund shall be applied exclusively to the payment of the expense of operating, maintaining and keeping in repair the said water system, the payment of interest of any bonds issued for the purpose of construction of waterworks, and the establishment and continuance of a sinking fund.

SECTION 7-03-001-0014 CITY WATER MAIN EXTENSION POLICY:

- A. Definitions: For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise.

DEVELOPER AND OWNER: Any person or persons engaged in the requesting and financing of a water main extension beyond the present City water mains to one or more parcels of land. The term includes subdividers, industrial developers, private property owners and companies, who improve platted or unplatted property.

CITY: The word "City" shall mean the City of Flagstaff in the County of Coconino, State of Arizona, except as otherwise indicated.

MAIN: Any water line which constitutes or will constitute part of the City water system.

- B. Size of Water Main Extensions: No water main will be installed with less than the minimum pipe size dictated by good engineering practice, and adopted standards set forth in the Uniform Building Code (current adopted edition), Uniform Fire Code (current adopted edition), General Construction Standards and Specifications of the City, current subdivision regulations, or the general land use plan currently adopted. In no case shall any water main be of a size less than six inches (6") for residential areas and eight inches (8") for commercial and industrial areas.
 - 1. Section 8-10-001-0001; Title 8 of the City Code, respectively
- C. Replacement or Repair: All persons or other entities who create, cause to be built or build any such extensions of any services as contemplated herein, shall also pay for any and all such replacements as becomes necessary as a direct or indirect result of the creation, building or construction of such extensions. For example, repairs or replacement of sidewalks, paving or other utilities damaged or disturbed during the building of water line extensions.
- D. Agreement Between City and Developer-Owner: Before the extension of any water main shall be made to serve a subdivision, platted or unplatted property, or any existing main tapped to provide service for any individual or unplatted property, the developer-owner desiring such service shall execute an agreement with the City which shall include in the following:
 - 1. A warrant of workmanship and material for mains and facilities installed which shall run to the benefit of the City for a period of at least one year, from the date of acceptance by the City.
 - 2. A diagram of all property which may be served by any main and appurtenances upon completion and acceptance of the work by the City.
 - 3. A statement that the City acquires ownership of any main and appurtenances upon completion and acceptance of the work by the City.
 - 4. A statement of the developer-owner's proportionate share of the cost for previously installed mains, if any reimbursement agreements are in existence concerning the line.
- E. Costs of Extension: The developer causing an extension of water mains shall pay in full for the rights of way and easements, the purchase, construction and installation of the lines, pipes, mains, fire hydrants and all other extension costs. However, the City reserves the right to increase the diameter of the main extension if it is deemed advisable, but under the condition that the laid cost of the main extension of the larger diameter pipe to the developer will not exceed the laid cost of the same extension of a size necessary to serve solely the proposed development.

- F. Penalty: Any person who excavates or causes an excavation to be made for the purpose of laying any water lines or pipes in the public streets, alleyways or other property of the City without first complying with the provisions hereof, shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. (Ord. 1157,6-16-81)

(Ord. 2002-05, Amended, 05/21/2002)

SECTION 7-03-001-0015 WATER CONSERVATION:

A. Definitions:

1. Commercial Provision: An agreement between the Utilities Department and a commercial customer where compliance with the Strategy Level may cause unreasonable economic hardship. A Commercial Provision may be applied for by a business that requires a water use for its day-to-day business operation to succeed. There is no fee associated with obtaining a Commercial Provision. Commercial Provisions shall not be considered for aesthetic landscaping purposes. Examples of businesses that may request a Commercial Provision include, but are not limited to, landscapers and nurseries. A request for a Commercial Provision shall be made in writing to the Utilities Director and shall include the nature of the business, the anticipated water usage per day, and what steps are being taken to conserve water at the business location.
2. Even-numbered address: Any street address ending in; zero (0), two (2), four (4), six (6), or eight (8).
3. Irrigate: To supply land or crops with water by means of pipes or hoses.
4. Odd-numbered address: Any street address ending in; one (1), three (3), five (5), seven (7), or nine (9).
5. Reclaimed Water: Water that has been treated or processed by a wastewater treatment plant or an on-site treatment facility. (ARS 49-201.31)
6. Resource Status I: When water demand is equal to or less than safe production capability.
7. Resource Status II: When water demand exceeds safe production capability for five (5) consecutive days.
8. Resource Status III: When water demand exceeds total production capability and the amount of water in storage may impair fire protection for the City.
9. Safe Production Capability: 90% of total water resources available measured in million gallons per day (MGD), based on potable water production and distribution components.

10. Special Provision: An agreement between the Utilities Department and a large-volume irrigator allowing special hours of irrigation due to public access concerns or hydraulic constraints.
 11. Surcharge: To charge an additional fee, cost, or levy.
 12. Total Production Capability: The total water resources available measured in million gallons per day (MGD), based on potable water production and distribution components.
 13. Unreasonable Economic Hardship: A hardship where a business' ability to operate using normally accepted practices is adversely affected by the water restriction.
 14. Water Availability Strategy: An effort initiated to ensure the availability of adequate water resources for the future, and in times of emergency.
 15. Wasting Water: To use or expend water thoughtlessly or carelessly. Examples include, but are not limited to, allowing water to run into the street/gutter, allowing water to pool, irrigating during precipitation events, and failing to repair water leaks. The determination of Wasting Water shall be made by a representative of the City of Flagstaff.
- B. The City Manager, upon the recommendation of the Utilities Director, is hereby authorized to declare and suspend Water Availability Strategies. The Strategies may be initiated and suspended based upon Resource Status Levels, or other pertinent information, which evaluate the relationship between water demand and municipal safe production capability.
- C. The following Water Availability Strategies shall govern the use of City water by any user of the City potable water system, as prescribed below:
1. Strategy I: Water Awareness (may implement with Resource Status I). Conserve water, in and outside of the home, using the best practices available to minimize waste. Water users are specifically encouraged to landscape with plant materials requiring little or no supplemental irrigation water. The following uses are restricted or prohibited.

No person shall:

- a. Irrigate between the hours of 9 AM and 5 PM. Even-numbered street addresses shall irrigate Wednesday, Friday, and Sunday. Odd-numbered street addresses shall irrigate Tuesday, Thursday, and Saturday. No irrigation shall be allowed on Monday. Daily hand watering with a hose or watering can is allowed. Strategy I irrigation hours shall apply to hand watering. Water use for maintenance of irrigation systems is permitted during all times of the day.
- b. Use water from a fire hydrant unless for public health or safety, or with the authorization of the Utilities Department.
- c. Waste water, as defined in section A.

- d. Irrigate golf courses unless Reclaimed Water is used.

New landscape permits. Daily irrigation of new landscape may be allowed for elective landscaping and will be allowed for required landscaping by obtaining a permit from the Water Conservation Office. The permit shall be good for a maximum of thirty (30) days. The fee for the permit shall be ten dollars (\$10) to cover administration and printing, and shall be adjusted to cover changing costs. The permit shall be obtained prior to landscape installation and prominently posted at the irrigation site. The determination of provision of an elective landscaping permit shall be made by a representative of the Utilities Department and may be appealed by the applicant to the Flagstaff Water Commission if thought to be unreasonably denied. The decision of the Water Commission shall be final. Strategy I irrigation hours shall apply to irrigation permits.

2. Strategy II: Water Emergency (may implement with Resource Status II). In addition to the requirements of Strategy I, the following uses are restricted or prohibited.

No person shall:

- a. Irrigate or wash vehicles, except as provided. Even-numbered street addresses are restricted to said uses on Wednesday, Friday, and Sunday. Odd-numbered street addresses are restricted to said uses on Tuesday, Thursday, and Saturday. No outdoor watering activity shall be allowed between the hours of 9 AM and 5 PM. Vehicle washing for public health and safety shall be exempt. This restriction shall not apply to commercial car washes.
- b. Wash paved areas such as drives, sidewalks and tennis courts, or buildings, except for health or safety. Restriction shall not apply to commercial high pressure water blasting for maintenance or construction purposes during strategy II. The use of Reclaimed Water for said uses shall not be restricted.
- c. Use potable water for filling ornamental fountains, artificial ponds or streams.
- d. Fill recreational swimming pools, spas, or wading pools holding more than 100 gallons.
- e. Use potable water for major construction activity, such as dust control, soil compaction, or street cleaning. Major construction activity shall be considered that activity requiring the use of a hydrant meter for the dispensing of potable water or obtaining the water from City of Flagstaff standpipes.

Single Family Residential, and all lawn meter rates shall increase to 150% of the established rate for any water consumption between 10,000 and 15,000 gallons. Rates shall increase to 200% of the established rate for any water consumption greater than 15,000

gallons per billing cycle. Rate increases shall take effect with the billing cycle(s) following the implementation of Strategy II.

Multi-family, Commercial, Industrial, and Institutional water rates shall increase to 120% of the established rate. The rate increase shall take effect with the billing cycle(s) following the implementation of Strategy II.

Potable water standpipe rates shall increase to 130% of the established rate. The rate increase shall take effect upon implementation of Strategy II. Standpipe water shall be limited to uses within a twenty-five mile radius of City Hall. Standpipe water shall not be used for major construction activity, dust control, irrigation of decorative landscaping and/or turf.

No new elective or required landscaping permits shall be issued. Landscaping not installed and required by the City of Flagstaff to meet the Land Development Code will not delay a Certificate of Occupancy to be issued providing its installation is delayed as a result of a suspension of new landscaping permits and a surety is provided acceptable to the Community Development Department.

Upon suspension of Strategy II, rates shall return to their respective level with the billing cycle(s) following the date of the suspension, or in the case of standpipe rates, upon suspension.

3. Strategy III. Water Crises (may implement with Resource Status III). In addition to the requirements of Strategy I and Strategy II, the following uses are restricted or prohibited.

No person shall:

- a. Use any potable water for outside use.
- b. Use fire hydrants, unless for public health, safety, and welfare by authorized government agencies only.
- c. Waste water intentionally or unintentionally. Specifically applies to all residential, commercial, industrial, and institutional use.
- d. Use potable water in violation of any other restriction deemed necessary by the City Council for the purpose of protecting the welfare of the citizens of Flagstaff.

No new Special or Commercial provisions shall be allowed unless approved by the Flagstaff City Council or the Water Commission.

D. Surcharges/Appeals:

1. A Surcharge of \$25.00 shall be assessed to the account of record for a violation of Strategy I.
2. A Surcharge of \$50.00 shall be assessed to the account of record for a violation of Strategy II.

3. A Surcharge of \$100.00 shall be assessed to the account of record for a violation of Strategy III.
4. Surcharges shall double for every repeat violation. Each succeeding Surcharge under the prevailing strategy level may be twice the previous Surcharge assessed for the previous violation.
5. A commercial water hauler determined to be violating the standpipe restrictions shall pay a surcharge equal to that for the appropriate Strategy Level prior to the receipt of additional water.
6. The assessment of the Surcharge may be informally appealed, in writing, within fourteen (14) calendar days of the notice of the Surcharge assessment. The written appeal shall be received by the City of Flagstaff Utilities Department within said fourteen (14) day time limit or the right to such appeal shall be permanently waived. Address all Surcharge-related correspondence to:

City of Flagstaff Utilities Department
Water Conservation Program Manager
211 West Aspen Avenue
Flagstaff, AZ 86001

(Ord. No. 1568, Enacted, 07/05/88; Ord. No. 2003-06, Enacted, 04/01/03)

SECTION 7-03-001-0016 CROSS CONNECTION CONTROL:

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E. Penalty

1. Fine not to exceed \$2500.00 per day
2. License revoked
3. Service disconnected

CROSS CONNECTION CONTROL

A. Definitions

Approved: The term "approved" as herein used in reference to a water supply shall mean a water supply that has been approved by the Arizona Department of Environmental Quality and the City of Flagstaff.

The term "approved" as herein used in reference to backflow prevention assemblies or methods shall mean an approval by the City of Flagstaff, Utilities Department based on a favorable laboratory and field evaluation report by a testing laboratory recognized by the Department.

Assembly: Any system for backflow protection consisting of more than one component and having been tested as one unit, and approved as one unit by the Department.

Backflow: The undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source or sources. Backflow is caused by either backpressure or backsiphonage.

Backpressure: Any Elevation of pressure in the customer's water distribution system (by pump, elevation of piping, or steam and/or air pressure) above the public potable water supply pressure which could cause a reversal of the normal direction of water flow from the consumer's water supply system into the public potable water supply system.

Backsiphonage: A form of backflow due to a reduction in the public water supply system pressure which causes a negative or sub-atmospheric pressure to exist at a site in the water system. A reversal in the normal flow of water results.

Consumer or Customer: The owner, official custodian or person in control of any premises or any property supplied by or in any manner connected to the City of Flagstaff public water supply system.

Cross-Connection: Any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections,

removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections.

Department: The City of Flagstaff, Utilities Department.

Hazard, Degree of: Evaluation of the potential risk to the public health and/or adverse effects upon the potable water supply system. Health hazards shall be classified as contamination while non-health hazards shall be classified as pollution.

Health Hazard: Any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

O.S. & Y. Valve: Outside stem and yolk control valve for fire sprinkler systems.

Public Water Supply System: All mains, pipes and structures owned and/or maintained by the City of Flagstaff, through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing potable water. Any mains, pipes or structures connected to the above listed system and supplying potable water to the customers of the City of Flagstaff.

Retrofit: Furnish new parts, equipment, or method of installation, any existing assembly that does not meet the requirements of this ordinance in such a way that will bring the assembly into compliance with this Ordinance.

Service Connection: The terminal end of a water tap from the public potable water system, (i.e. where the water purveyor may lose jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system). If a meter is installed at the end of the service connection, then the service connection shall mean the discharge end of the meter.

B. General Requirements

1. Cross-connections prohibited. Connections between the public water supply system and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved backflow prevention assemblies or methods are installed or implemented, tested and maintained to Department specifications to insure proper operation on a continuing basis.
2. Rights and Responsibilities of the Department. It shall be the right and responsibility of the Department to evaluate and investigate as deemed necessary, industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply exist. Such

evaluations and investigations shall be repeated as often as the Department deems necessary.

It shall also be the right and responsibility of the Department to require the installation and periodic testing of backflow prevention assemblies at any premises or property where such potential or actual hazards are found to exist.

3. Responsibility of the Consumer. The consumer, as defined by Section 7-3-16(A), shall be responsible and financially obligated for the protection of the public water supply system from the possibility of contamination or pollution due to backflow or backsiphonage of contaminants through the customer's water service connection into the public potable water system.

If, in the judgment of the Department, an approved backflow prevention assembly is necessary for the protection of the public water system, the Department shall give notice to the consumer to install such. The consumer, after due written notice and within the prescribed time indicated on the notice, shall install such approved assembly(s) at their own expense. Installation of such assembly(s) shall be in accordance with the manufacturer's instructions, and the Department installation requirements. The consumer shall provide for the maintenance, testing, and repair of the assembly and shall provide all reports as required by the City of Flagstaff. Failure, refusal or inability on the part of the consumer to install, have tested and/or maintain said assembly(s) or failure of the consumer to file required reports shall constitute a ground for discontinuing water service to the premises until such requirements have been satisfactorily met.

It shall be the responsibility of the consumer to make arrangements for an authorized representative of the City of Flagstaff to, upon presentation of his or her credentials, have free access at all reasonable hours to any property served by a connection to the public water distribution system of the City of Flagstaff and/or any backflow assemblies on the property and any related records for the purpose of verifying the presence or absence of actual or potential cross-connections and/or required assemblies.

4. Existing facilities

All presently installed backflow prevention assemblies, devices, or methods which do not meet the requirements of the Department and/or applicable state or federal regulations but were approved for the purposes described herein at the time of installation shall be evaluated for their ability to efficiently and satisfactorily protect the public water system from potential or existing cross connections with the private water supply. If, upon such evaluation, the Department determines that an existing device, method or assembly does not meet existing requirements, the customer shall at their own expense, upon due written notice and within the prescribed time indicated on the notice retrofit, replace or modify the installation of such to meet current standards or show just cause for noncompliance.

Whenever an existing device, method or assembly is moved from the present location or requires more than minimum maintenance or when the Department finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of these regulations.

5. New Facilities

All facilities constructed after the effective date of this Ordinance, shall present their plans for review by an authorized representative of the Department for determination of cross-connection hazards.

All backflow prevention assemblies to be installed shall be shown on all required building and engineering plans. No installation of assemblies shall be made unless these plans are reviewed and approved by an authorized representative of the Department.

All assemblies shall be inspected by an authorized representative of the Department upon installation and the consumer shall provide written verification that the assembly has been successfully tested as described in section (D) of this Ordinance, prior to issuance of certification of occupancy. Water service may be withheld if the assembly is not installed and tested in accordance with this ordinance and Department requirements.

6. Where Backflow Prevention is Required

The following conditions shall warrant the installation of an approved backflow prevention assembly:

- a. Premises with an auxiliary water system with a source which has not been approved by the City of Flagstaff or the State of Arizona.
- b. Premises where any substance(s) or conditions exist which could create an actual or potential hazard to the public water supply system.
- c. Premises with internal cross-connections which the Department determines to be non-correctable, or premises with plumbing systems so intricate that a cross-connection inspection is impossible or impractical.
- d. Premises with security restrictions or other access prohibitions which make cross-connection inspections impossible or impractical.
- e. Premises with an existing unprotected cross-connection or with a history of cross-connection violations.

The type of assembly required shall be determined by the Department according to the degree of hazard present as recommended by the Manual for Cross Connection Control, 8th Edition, USC-FCCHR (Los Angeles, California: June 1988) (and

no future editions). Assemblies shall be installed as close as possible to the service connection or immediately inside the building being served before the first branch line leading off the service line. In all cases, the backflow prevention assembly shall protect against the highest hazard present.

7. Adoption of Public Record

The Manual for Cross Connection Control, 8th Edition, USC-FCCHR (Los Angeles, California: June 1988) (and no future editions), declared a public record by Resolution No. 1753 is incorporated herein by reference and adopted in full.

C. Installation Requirements

1. The Department shall maintain a list of approved backflow prevention assemblies, by type and manufacturer. Any consumer required by the Department to install an approved backflow prevention assembly must utilize an assembly included in such list.
2. Backflow prevention assemblies shall have a diameter at least equal to the diameter of the service connection.
3. The assembly shall be in an accessible location approved by the Department and protected from freezing. A pressure vacuum breaker assembly shall be installed above ground.

A double check valve assembly may be installed, upon approval of the Department, below ground in a vault which meets standard specifications established by the City.

A reduced pressure principle assembly shall be installed above ground with adequate drainage provided to accommodate discharge from the pressure relief valve if backflow should occur. A reduced pressure assembly shall not be installed in a vault without prior approval of the Department and unless adequate drainage can be assured.

4. When a customer requires a continuous water supply, two backflow prevention assemblies shall be installed parallel to one another at the service connection to allow a continuous water supply during testing, repair or maintenance of the backflow prevention assemblies. When backflow prevention assemblies are installed parallel to one another, the sum of the areas of the diameters of the assemblies shall be at least equal to the area of the diameter of the service connection.
5. It shall be unlawful for any person to bypass or remove a backflow prevention method without the approval of the Department.
6. Any property with more than one water service connection shall install backflow prevention assemblies on each service connection to the property, unless otherwise designated by the Department.

D. Maintenance & Testing

1. The consumer shall have backflow prevention assemblies tested upon installation and at least once per year, or more frequently if deemed necessary by the Department, at the consumer's expense. If the testing reveals the assembly to be defective or in unsatisfactory operating condition, the customer shall arrange for repairs. The customer shall have performed, by an appropriately licensed contractor, any necessary repairs within 30 days or as directed by the Department, including replacement or overhaul of the assembly if necessary, which will return the assembly to satisfactory operating condition. The customer shall then have the assembly retested, within 30 days following repairs, until testing reveals no defects or unsatisfactory operating conditions. If the Department determines that a severe health hazard exists, they may specify a more restrictive repair schedule.
2. The consumer shall be responsible for maintenance of all backflow assemblies at his/her expense. If the Department or customer learns or discovers, during the interim period between tests that an assembly is defective or in unsatisfactory operating condition, the customer shall arrange for repairs. The customer shall have any necessary repairs performed by an appropriately licensed contractor, including replacement or overhaul of the assembly, if necessary, which will return the assembly to satisfactory operating condition within 30 days of discovery. Such assembly shall be retested within 30 days following repairs, until testing reveals no defects or unsatisfactory operating conditions.
3. All testing shall be performed by an individual who holds a valid "General" Tester Certification issued by the California-Nevada American Water Works Association (Cal-Nev AWWA), the Arizona State Environmental Technical Training (ASETT) Center, or other certifying authority approved by the Department.
4. No existing backflow prevention assembly shall be altered, disconnected or replaced without prior approval of the Department.
5. All backflow assemblies installed on fire sprinkler systems shall have a chain with a padlock from the first O.S. & Y. valve to the second O.S. & Y. valve, or an operable alarm system or both.
6. Test cocks are to be used for testing only and shall be installed in accordance with Department requirements. Any unauthorized use of these test cocks is a violation of this code.
7. Each backflow prevention assembly shall be easily identified by displaying the following in a conspicuous manner on the assembly:
 - a. Manufacturer
 - b. Model Number
 - c. Serial Number

This information must also be provided to the Department by the consumer promptly upon installation.

8. The consumer shall maintain accurate and precise records of all tests, servicing, repairs, overhauls or replacement of the backflow prevention assembly, on forms approved by the City. A copy of the records shall be submitted to the Department within 30 days after completion of each activity for which the record is made.
9. The consumer shall notify and receive approval from the City of Flagstaff Fire Marshall, at least 24 hours in advance, of any maintenance or testing performed upon assemblies installed upon fire sprinkler systems which requires discontinuance of water supply to that system.

E. General Penalty & Fees

1. Violation of any section of this Ordinance shall constitute a misdemeanor and shall result in a fine of no less than one hundred dollars (\$100.00) and not to exceed twenty-five hundred dollars (\$2500.00) for any one offense. A separate offense shall be committed for each day of noncompliance with any of the requirements of this Ordinance.
2. When convicted of a violation of this Ordinance, any license previously issued to that person by the City may be revoked by the Flagstaff City Council or any proper court, if there may be reasonable relationship between the activities listed and the offense. Revocation of license shall not be considered a recovery of penalty so as to bar any other penalty being enforced.
3. The Department may deny or discontinue, after reasonable notice to the occupants thereof, the water service to anyone using the City of Flagstaff water distribution system or to any premise wherein any backflow prevention assembly or method required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Department, or if required reports and/or records are not properly filed, or if it is found that the backflow prevention assembly or method has been removed or bypassed, or if an unprotected cross-connection exists on the premises. Reasonable notice shall be sent in writing at least two weeks prior to the disconnection, unless the Department determines that a potential for a severe health hazard exists.

If the Department determines that a potential for a severe health hazard exists the Department may immediately discontinue water service without notice. Notice by telephone will be given as soon as possible and written notice will be sent within five (5) days, following discontinuance of water service.

Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Department.

Fire sprinkler systems shall not be subject to disconnection without the explicit approval of the City Fire Marshall, but will be subject to other penalties as provided for in this Ordinance. (Ord. 1736, 4-2-92)

**CHAPTER 7-04
MUNICIPAL REFUSE COLLECTION SERVICE**

SECTIONS:

<u>7-04-001-0001</u>	SHORT TITLE:
<u>7-04-001-0002</u>	DEFINITIONS:
<u>7-04-001-0003</u>	COMPLIANCE WITH REGULATIONS:
<u>7-04-001-0004</u>	COLLECTION SUPERVISED BY DIRECTOR OF PUBLIC WORKS:
<u>7-04-001-0005</u>	REGULATIONS:
<u>7-04-001-0006</u>	STORING OF REFUSE:
<u>7-04-001-0007</u>	COLLECTION PRACTICES:
<u>7-04-001-0008</u>	FEES:
<u>7-04-001-0009</u>	DELINQUENT ACCOUNTS:
<u>7-04-001-0010</u>	BURNING SOLID WASTES:
<u>7-04-001-0011</u>	SOLID WASTES COLLECTION CONTRACTORS:
<u>7-04-001-0012</u>	PENALTIES:

SECTION 7-04-001-0001 SHORT TITLE:

This Chapter shall be known and may be cited as the "Municipal Refuse Collection Service Ordinance of the City of Flagstaff, Arizona."

SECTION 7-04-001-0002 DEFINITIONS:

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ASHES: The residue from the burning of wood, coal, coke or other combustible materials.

AUTOMATED COLLECTION: That service which requires a City of Flagstaff sanitation employee to operate an automatic collection vehicle which lifts and deposits refuse, located in a City supplied plastic cart, into said vehicle. (Ord. 1609, 2/21/89)

BIN SYSTEM: A contained refuse collection system that utilizes large metal bins varying in size from two (2) to eight (8) cubic yards. (Ord. 1609, 2/21/89)

BIN CHARGE: The actual cost incurred by lifting and dumping commercial refuse bin, dumped at the customer location per month, (Ord. 1764, 07-21-92)

BULKY ITEMS: Wood, timber, household discards, large pieces of metal, tree limbs, bagged yard rakings or trimmings, or other similar material.

BUSINESS ESTABLISHMENT: Any structure or premises not used as a residence, including but not limited to retail, wholesale, warehouse, store, factory, production, processing, manufacturing, restaurant, construction, hospitals, governmental entities, public authorities (schools) or office uses, but not including any residence.

CITY: The City of Flagstaff.

CITY HEALTH OFFICIAL or HEALTH OFFICIAL: The Health Official or designated representative of the City of Flagstaff. (Ord 1609, 2/21/89)

COMMERCIAL WASTE: Garbage, refuse and/or other solid waste generated by a business establishment, other than construction and demolition debris, other waste deposited, collected and transported in roll-offs, and recyclables.

COMMERCIAL WASTE COLLECTION: The collection or removal of commercial waste from one or more business establishments.

CONTAGIOUS or INFECTIOUS WASTE: Waste capable of producing an infectious disease in humans or animals when they are exposed to it. (Ord. 1609, 2/21/89)

DIRECTOR OF PUBLIC WORKS or DIRECTOR: The Director of Public Works of the City of Flagstaff, Arizona.

GARBAGE: The putrescible solid wastes(excluding ashes),consisting of both combustible and noncombustible wastes such as food waste, yard clippings, trimmings, bulky items and similar material. (Ord. 1162, 7-7-81)

GREASE BIN: A container specifically designed and maintained for the purpose of the storage and collection of grease or animal and vegetable wastes resulting from the processing, handling, preparation, cooking, and serving of food or food materials.

HOIST AND HAUL SYSTEM: A contained refuse collection system that uses a stationary refuse compactor and twelve (12) to forty (40) cubic yard compactor bins or open top roll-off boxes. The compactor bins or open top roll-off boxes are removable and can be loaded onto a truck equipped with a tilt frame and hoist mechanism. The compactor bins or open top roll-off boxes are emptied at the disposal site and returned to their original location. (Ord. 1609, 2/21/89)

INDUSTRIAL REFUSE: Solid or liquid wastes resulting from industrial processes and manufacturing operations and including food, boiler, house cinders, wood, plastic, metal scraps and other processing wastes. (Ord. 1225, 10-19-82)

INFLAMMABLE or EXPLOSIVE WASTE: Any liquid, solid or gas with an ignition or flash point of less than two hundred (200) degrees Fahrenheit, but not limited to gasoline, benzene, naphtha, alcohol, or other flammables or explosives. (Ord. 1609, 2/21/89)

ORGANIZATION: Any body of persons organized for some end or work, including but not limited to public agencies, nonprofit institutions, fraternal organizations, service clubs and religious groups.

PERSON or COMPANY: Includes individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

PICKUP CHARGE: Said cost shall be the actual average cost incurred by traveling from the City origination point to customer location. The cost allocated to each customer will be the cost allocated to pickups per day

divided by average number of pickups made per day, multiplied by the number of pickups made at customer location per month. (Ord. 1609, 2/21/89)

RECYCLABLES: Waste materials that can be recovered, processed and reused, which shall include: newspapers (including inserts); residential mixed paper (including window envelopes), corrugated cardboard, office paper (including white, colored and computer paper, and window envelopes), aluminum cans and scrap; steel and bi-metal food and beverage cans and lids; plastic bottles and containers labeled #1 (pet or pete) and #2 (HDPE); green, amber and clear glass; and such other waste materials as the Director shall provide by regulation in accordance with Section 0005 of this Division.

REFUSE: All putrescible and nonputrescible solid wastes (except body wastes), including garbage, ashes, street cleanings, dead animals, and solid waste and industrial refuse. (Ord. 1609, 2/21/89)

RESIDENCE: Any structure or premises used as a domicile, dwelling, or habitation, including but not limited to single family dwellings, multifamily dwelling units, duplexes, patio homes, mobile homes, mobile home parks, trailers, trailer courts, boarding houses, apartments, condominiums, townhouses, or any complex of the foregoing.

RESIDENTIAL WASTE: Garbage, refuse, and/or other solid waste generated by a residence, other than construction and demolition debris and recyclables.

RESIDENTIAL WASTE COLLECTION: The collection or removal of residential waste from one or more residences.

ROLL-OFF: A transportable container commonly known as a "roll-off" or "hoist and haul" container, used for the deposit, collection, and transport of construction and demolition debris and other solid waste generated by large business establishments.

SECURELY ANCHORED LOAD: Material being transported over a City street by a vehicle which does not provide a tight cover but is securely anchored against possible loss from the vehicle as per Arizona Revised Statutes, Section 28-1098. (Ord. 1162, 7-7-81)

SEPTIC WASTES: Those liquid and solid materials resulting from drainage of cesspools, septic tanks and other storage facilities. (Ord. 1225, 10-19-82)

SOLID WASTE: Garbage or refuse.

SOLID WASTES COLLECTION COMPANY: Any company or person engaged in the removal of solid wastes from hotels, restaurants, cafes, and other places not otherwise provided with service by the City.

TRIMMINGS: Shrubs or tree growth of more than four feet (4') in length and less than one-half inch (1/2") in diameter. (Ord. 1162, 7-7-81)

UNCOVERED LOAD: A load of solid waste in which loose material might fall or be blown from the transporting vehicle because the material is not completely contained within closed containers or completely enclosed within the transporting vehicle by means of a tarpaulin or other equivalent covering or packaging designed to prevent the loss of any and all material from the transporting vehicle. (Ord 1535, 11-17-87)

YARD CLIPPINGS: Grass, sod and plant growth of less than four feet (4') in length and less than one-half inch (1/2") in diameter. (Ord. 1986, 12-01-98)

(Ord. No. 1609, Amended, 02/21/89; Ord. No. 1764, Amended, 07-21-92; Ord. No. 1986, Amended, 12/01/98)

(Ord. 2000-09, Amended, 05/02/2000)

SECTION 7-04-001-0003 COMPLIANCE WITH REGULATIONS:

Any person collecting, conveying over any of the streets or alleys of the City, or disposing of any refuse accumulated in the City, shall comply with the provisions of this Chapter and with any other governing law or ordinance. (Ord. 1162, 7-7-81)

A. Actual Producers: This Chapter shall not prohibit the actual producers of refuse, or the owners of premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse, provided such producers or owners comply with the provisions of this Chapter and with any other governing law or ordinances. Persons choosing to personally collect and convey such refuse to the City landfill may be exempt from the City collection charge, provided they formally declare for exemption. (Ord. 1609, 2/21/89)

B. Outside Collectors: This Chapter shall not prohibit collectors of refuse from outside the City from hauling such refuse over City streets, provided such collectors comply with the provisions of this Chapter and with any other governing law or ordinances.

(Ord. No. 1609, Amended, 02/21/89; Ord. No. 1986, Amended, 12/01/98)

SECTION 7-04-001-0004 COLLECTION SUPERVISED BY DIRECTOR OF PUBLIC WORKS:

All solid waste generated or accumulated in the City shall be collected under the supervision of the Director of Public Works. Except as otherwise expressly provided in this chapter, all such solid waste shall be removed, collected and/or disposed of only by the city or companies licensed for such purpose. (Ord. 1986, 12-01-98)

(Ord. No. 1986, Amended, 12/01/98)

SECTION 7-04-001-0005 REGULATIONS:

The Director of Public Works shall propose regulations concerning the days of collection, type and location of waste containers, handling of refuse, and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary, and to propose modifications to the same after notice as required by law, provided that such regulations are not contrary to the provisions hereof. Regulations and modifications to regulations shall become effective after approval by the City Manager and authorization by City resolution.

A. Appeals: Any person aggrieved by the enforcement of the regulation, or fee charged, by the Director shall have the right of appeal to the City

Manager who shall have the authority to confirm, modify or revoke any such regulation or fee.

- B. Annual Report: The Director shall, not less than once per year nor later than May 1 of each year submit to the City Manager an annual report. The annual report shall contain:
1. Projected costs for the current fiscal year;
 2. Proposed revenue from the current fiscal year;
 3. Estimated costs for the following fiscal year;
 4. Proposed fee structure for the following fiscal year;
 5. Estimated income for the following fiscal year, based upon the proposed fee structure.

SECTION 7-04-001-0006 STORING OF REFUSE:

- A. Public Places: No person shall place any refuse in any street, alley or other public place within the City, or upon any private property within the City, whether owned by such person or not, except if placed in containers authorized for collection, grease bins, or bulky items placed curbside for bulky collection, by the current regulations. Nor shall any person throw or deposit any refuse in any stream or other body of water.
- B. Unauthorized Accumulation: Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of refuse within thirty (30) days after the effective date hereof shall be deemed a violation of this Chapter.
- C. Scattering of Refuse: No person shall cast or cause to be cast, place, sweep or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the City.
- D. Molesting Containers: It shall be unlawful for any person to uncover or cause to be uncovered, or tip or cause to be tipped over, or molest or cause to be molested in any manner any container of garbage or REFUSE placed upon any street, curb, or alley for removal by an authorized collector.
- E. The City shall provide appropriate automated collection carts for all customers serviced by the automated collection system.
- F. Automated collection carts provided by the City shall be maintained by the City or replaced when determined necessary by the Environmental Services Director. (Ord. 2002-19, 11/19/02)
- G. Each City-owned container shall be assigned to the property and not to the occupant of the property. No person who occupies any property to which a container has been assigned may remove the container from the assigned property for any reason.

- H. The occupant of a residential property or business establishment is responsible for the refuse container. The container shall be kept in a clean and sanitary condition. The occupant of the property is responsible for the cost of replacing the container when its replacement is necessitated by damage due to the occupant's misuse.
- I. The City will provide appropriate bins for hotels, restaurants, businesses, or institutions requesting City bin service. Such bins shall be maintained by the City and replaced when determined no longer serviceable by the Environmental Services Director. (Ord. 2002-19, 11/19/02)
- J. Vandalism to City-owned containers shall be reported to the Solid Waste Division and the City Police Department by the solid waste customer. (Ord. 1821, 10/05/93)
- K. Scavenging:
1. No person, other than the City, the owner, or a company licensed for collection shall disturb, collect, or remove any solid waste set out for collection.
 2. No person unless authorized by the City, may remove, collect or disturb recyclable materials deposited for collection at any of the city's designated recycling drop-off locations.
- L. No solid waste or materials other than recyclables shall be placed or stored in any container provided by the City for the storage and collection of recyclables. (Ord. 1986, 12-01-98)
- (Ord. No. 1609, Amended, 02/21/89; Ord. No. 1764, Amended, 07/21/92; Ord. No. 1821, Amended, 10/05/93; Ord. No. 1986, Amended, 12/01/98)
(Ord. 2002-19, Amended, 12/23/2002; Ord. 2000-09, Amended, 05/02/2000)

SECTION 7-04-001-0007 COLLECTION PRACTICES:

A. Frequency of Collection:

1. Residential: The director shall collect or direct the collection of refuse from all residences in the City. Refuse accumulated by residences shall be collected at least once each week for household refuse and once every four weeks for bulky items or as required by State of Arizona regulations.
 - a. Single Family Residences: Refuse accumulated by single family residences shall be collected by the City's automated container collection system. A minimum of one automated refuse container is required for each housing unit. Collection will be provided at least once each week or as required by State of Arizona regulations. Special container roll-out service will be provided for those residents with a handicap or otherwise determined unable to place the automated containers out for collection. In these predetermined cases, the containers will be rolled out by Solid Waste employees and returned after collection. (Ord. 2002-19, 11/19/02)

- b. Multi-Family Residences: Refuse accumulated by multi-family residences shall be collected by either the City's automated collection system or the City's bin collection system. The Environmental Services Director shall determine the appropriate collection system based on the number of dwelling units and volume of refuse generated. Collection will be provided at least once each week, with up to seven days per week collection available. Multiple bin service is provided. (Ord. 2002-19, 11/19/02)
 - c. Bulky Items - Tree Limb Collection: Non-containerized refuse will be collected on a once every four week rotating schedule. Residents are to place bulky items/tree limbs at the edge of their front yard by 6:00 A.M., Monday of their scheduled week. (Ord. 1821, 10/05/93; Ord. 2002-19, 11/19/02)
 - 2. Commercial: the Director shall collect or direct the collection of refuse from all business establishments in the City during the collection period for the fee described in the current regulations. The Director may refuse to collect unreasonable amounts of refuse or to collect when poor conditions of handling exist and may make an additional charge for such amounts or conditions as outlined in the current regulations. (ORD. 1609, 2/21/89)
- B. Special Refuse Problems: All special refuse problems shall be disposed of as directed by the Director of Public Works at the expense of the owner or possessor thereof. Other special refuse problems not identified below shall be determined and addressed by the Director of Public Works.
 - 1. Contagious Disease Refuse: The removal of wearing, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision and direction of the City Health Officer. Such refuse shall not be placed in containers for regular collections.
 - 2. Inflammable or Explosive Refuse: Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the Director at the expense of the owner or possessor thereof.
 - 3. Industrial Refuse: Industrial wastes will be accepted in the landfill in quantities regulated by the Director of Public Works. The cost of handling industrial wastes will be determined by the Director of Public Works.
 - 4. Septic Wastes: Disposal of septic wastes is not allowed at the landfill. (Ord. 1764, 07-21-92)
 - 5. Any refuse deemed toxic or hazardous by the Director of Public Works will not be collected or disposed of at the landfill. Anyone knowingly or unknowingly depositing hazardous or toxic waste at the landfill must remove said waste within twenty-four (24) hours at their own expense. If the City or City designee has to remove said waste, the cost of removal shall be charged to the person placing said waste at the landfill. (Ord. 1609, 2/21/89)

6. Nothing in this section shall be construed to prevent individual property owners from hauling their own refuse from their own premises to a legal point of disposal or recycling, in accordance with Section 0003.A of this Division.
- C. Ownership of Solid Waste. All solid waste set out for collection in the City will remain the property and responsibility of the property owner or generator until collected by the City or licensed company, whereupon it shall become the property of the collector.
- D. Garbage, before being placed into containers for collection, shall be drained of any liquids and shall be wrapped in paper or plastic and sealed.
- E. Ashes shall be placed in separate containers and thoroughly doused with water and extinguished before collection.
- F. The occupant of the property shall not place hot ashes, bricks, concrete, hazardous or toxic wastes, or any material or refuse harmful to the public or destructive to the container or collection vehicle in the container being set out for City pickup.
- G. Residential containers shall be placed at curbside by 6:00 A.M. on the day of collection. Containers shall be removed from the curbside on the same day the container is serviced. (Ord. 1764, 07-21-92)
- H. Residential or commercial containers shall not be allowed to be blocked by vehicles or other objects that may hinder their pickup by City sanitation vehicles or employees. Automated collection carts shall not be placed within FOUR (4) feet of objects that can be damaged by the City's automated equipment. (Ord. 1609, 2/21/89)
- I. Unattended Containers: No person shall place, display, or maintain any unattended container for soliciting deposit of recyclable materials or donated items in any exterior location within the City limits, except in conformance with all of the following provisions:
- a. Such unattended containers may be located only within the parking lot of private property lawfully zoned, developed and used for commercial or industrial purposes or at schools, churches, or charitable organizations which have similar parking facilities.
 - b. Such unattended containers may be located only with the permission of the property owner, his agent, or the person in possession of the property, and the owner's name and current telephone number shall be displayed on the container in a conspicuous location.
 - c. The owner of such unattended container and the property owner shall jointly or severally maintain all exterior areas within twenty-five feet (25') of the container free from litter. (Ord. 1986, 12-01-98)

(Ord. No. 1609, Amended, 02/21/89; Ord. No. 1764, Amended, 07/22/92; Ord. No. 1764, Amended, 07/21/92; Ord. No. 1821, Amended, 10/05/93; Ord. No. 1986, Amended, 12/01/98; Ord. 2002-19, Amended, 11/19/02)
(Ord. 2002-19, Amended, 12/23/2002; 2002-19, Amended, 11/19/2002)

SECTION 7-04-001-0008 FEES:

A. Deposit:

1. Commercial refuse customers shall provide a deposit which shall be the equivalent of two (2) months service or fifty dollars (\$50.00), whichever is greater.
2. Landfill account customers shall provide a deposit of two hundred fifty dollars (\$250.00) per account.
3. Hoist and Haul Customers shall provide a deposit of one hundred sixty dollars (\$160.00) per account.
4. The deposit shall be refunded when:
 - a. The account has been paid in a current manner for one (1) year, or
 - b. The account is closed out and paid in full, or
 - c. There has been no activity in the account for ninety (90) days.
5. If an inactive or closed account is reactivated, a new deposit shall be collected.
6. If after a deposit is refunded, a customer should have the service terminated due to non-payment, a new deposit is required before service is resumed.
7. Persons who have qualified for a deposit refund and have no other municipal account delinquency shall be exempt from any deposit requirement as required in the above paragraphs. Additionally, specific exemptions from deposit provisions shall apply to churches, non-profit community organizations, and other utilities.
8. No interest shall be paid by the City upon any deposit refund. (Ord. 1845, 11/01/94)

B. Residential Collection Fees:

1. Automated Service \$13.50/month/container for once a week collection of container, once every four week bulky item collection, weekly white goods collection/recycling, and access to the Household Hazardous Products Collection Center. Billing will apply to each residential unit continuously. (Ord. 1887, 08/29/95; Ord. 2002-19, 11/19/02)
2. Replacing Automated Containers - Replacement cost of container to the City plus \$10.00 service fee.

Additional Automated Containers - Replacement cost to City of container plus \$10.00 service fee with an additional service fee equaling fifty percent (50%) of the normal monthly fee. (Ord. 1887, 08/29/95)

3. Special Collection Service - Special bulky item collection will be provided upon request to residential and business customers for a fee equal to the cost for equipment, manpower, and landfill disposal, at a one half hour minimum rate. (Ord. 1821, 10/05/93)
4. Recycling Collection - Recycling collection is provided to each residential customer included in the \$13.50/month service fee. One recycling container is provided per customer, and collection is once per week. White goods/appliances are collected curbside once each week. (Ord. 2002-19, 11/19/02)

C. Commercial Collection Fees:

1. Commercial Bin Service: The monthly fee for service shall be as follows: (Ord. 1845, 11/01/94)

BIN SIZE CU YD	# OF BINS	ONE DAY WEEK	TWO DAYS WEEK	THREE DAYS WEEK	FOUR DAYS WEEK	FIVE DAYS WEEK	SIX DAYS WEEK	SEVEN DAYS WEEK
2	1	\$ 46.55	\$ 93.11	\$139.68	\$186.25	\$232.81	\$279.38	\$325.95
3	1	\$ 48.68	\$ 97.38	\$146.02	\$194.77	\$243.47	\$292.17	\$340.86
	2	\$ 66.94	\$133.90	\$200.86	\$267.81	\$334.77	\$401.73	\$468.69
4	1	\$ 50.80	\$101.64	\$152.47	\$203.29	\$254.12	\$304.95	\$355.78
	2	\$ 71.20	\$125.37	\$213.64	\$284.85	\$356.08	\$427.29	\$498.53
	3	\$ 91.59	\$183.20	\$274.81	\$366.42	\$458.04	\$549.65	\$641.26
6	1	\$ 55.07	\$110.16	\$165.25	\$220.34	\$275.42	\$330.51	\$385.60
	2	\$ 79.72	\$159.46	\$239.20	\$318.94	\$398.68	\$478.43	\$558.18
	3	\$104.37	\$208.76	\$313.15	\$417.56	\$521.96	\$625.08	\$730.74
8	1	\$ 59.33	\$118.67	\$178.03	\$237.38	\$296.73	\$356.08	\$415.43

(Ord. 2002-19, 11/19/02)

2. Exceptional Services:

Return to blocked bin: \$ 12.00

Extra pickup: \$ 4.00 x cubic yard scheduled
\$ 8.00 x cubic yard unscheduled

Other, for bin service - at actual cost

(Ord. 2002-19, 11/19/02)

3. COMMERCIAL RECYCLING SERVICE: THE MONTHLY FEE FOR SERVICE IS AS FOLLOWS:

BIN SIZE CU YD	ONE DAY WEEK	TWO DAYS WEEK	THREE DAYS WEEK	FOUR DAYS WEEK	FIVE DAYS WEEK
2 1	26.86	53.74	80.63	107.51	134.35
3 1	27.88	55.78	83.68	111.58	139.49
4 1	28.90	57.82	86.74	115.87	144.58
2	42.15	84.31	126.48	168.10	210.81
6 1	30.94	61.89	92.85	123.81	154.57
1	46.22	92.53	138.70	184.94	231.19

90 Gallon Recycling Collection - \$7.50 per container per month for once per week collection.

300 Gallon Recycling Collection - \$18.50 per container per month for once per week collection.

White Good Collection - White goods will be collected from business establishments for a fee of \$17.00 Per unit for appliances and freezers/refrigerators with the freon, oil and compressors removed with proper documentation, \$33.00 Per unit for appliances with freon, oil and compressors in place.

D. Hoist and Haul:

1. Minimum charge of one pull per month, for City owned containers.

2. Customer Owned Container:

The cost shall be \$115 per pull for overhead costs plus \$31.95 per ton for landfill disposal costs. (Ord. 1954, 09/02/97; Ord. 2002-19, 11/19/02)

Recycling Compactor - \$105 per pull for overhead costs plus \$29.25 per ton processing fee. (Ord. 2002-19, 11/19/02)

City Owned Container:

The cost shall be \$130 per pull for 40 yard containers and \$115 per pull for 20 and 30 yard containers for overhead costs, plus \$31.95 per ton for landfill disposal costs. (Ord. 1954, 09/02/97; Ord. 2002-19, 11/19/02)

3. Exceptional Services: At cost

E. Any service required that does not fit into the above schedules will have an alternative payment schedule approved by the City Manager. Such schedule will be in writing and signed by both parties.

F. Replacement Fees:

Should a cart, bin, or hoist and haul container need replacement as per Section 7-04-001-0006, the replacement costs shall be equal to the replacement cost to the City plus a \$10.00 service fee.

G. Outside City Fees:

The monthly fee for any solid waste collection service outside the City limits shall be at one hundred and ten percent (110%) of the cost for in-City service.

H. Landfill Fees:

Landfill fees shall be calculated at the actual cost per ton plus an additional amount to be determined by City Council to establish sinking funds to fund future projects and equipment purchases. The City shall establish a legal reserve within the Solid Waste Fund for the purpose of funding costs of closing the landfill as required by the EPA or its

designee. Monies shall be appropriated and set aside monthly in an amount to meet the estimated capital costs, to include; liner system; methane collection and cover material. Interest shall accrue to this account to be used for all the same purposes mentioned above.

The rate shall be as follows plus all applicable State and federal taxes:

1. Coconino County Landfill Rate: The rate for haulers within Coconino County shall be as follows plus all applicable state and federal taxes:

Less than one to one ton:	\$31.95
More than one ton:	\$31.95 per ton

(Ord. 2002-19, 11/19/02)

A landfill fee shall be assessed commercial haulers at the rate of \$31.95 per ton with a \$31.95 minimum charge. Commercial haulers with uncovered loads shall be assessed twice the applicable rate. City residents transporting refuse in a non-commercial capacity shall be exempt from paying landfill fees except when delivering uncovered loads resulting in spillage, in which case they shall be assessed at a rate of \$31.95 per ton with a \$31.95 minimum. (Ord. 1954, 09/02/97; Ord. 2002-19, 11/19/02)

2. Outside Coconino County Landfill Rate: All haulers will be required to participate in the City's recycling program, or be required to pay a \$20.00 per ton surcharge. (Ord. 2002-19, 11/19/02)

3. County Residents Landfill Rate: The rate for County residents hauling refuse to the landfill shall be as follows:

One bag up to three bags:	\$ 1.00 per bag
Four bags up to one pickup truck load:	\$15.00 per load
More than one ton:	\$31.95 per ton

(Ord. 1954, 09/02/97; Ord. 2002-19, 11/19/02)

4. Inert Material Landfill: The rate for haulers disposing of inert material (dirt, rock and clean concrete) will be as follows:

Varying Fee Schedule

Job Size	Rate
1 C.Y. to 5,000 C.Y.	\$ 2.50 per C.Y.
5,001 C.Y. to 10,000 C.Y.	\$ 2.25 per C.Y.
10,001 C.Y. to 25,000 C.Y.	\$ 2.00 per C.Y.
25,001 C.Y. to 40,000 C.Y.	\$ 1.75 per C.Y.
over 40,000 C.Y.	charged by truck load
10 C.Y. truck	\$15.00
16 C.Y. truck	\$24.00
20 C.Y. truck	\$30.00
30 C.Y. truck	\$45.00

5. White Goods Disposal: Disposal of white goods/appliances and freezers/refrigerators from business establishments with the freon, oil and compressors removed with proper documentation is \$7.00 per unit or \$23.00 Per unit with freon, oil and compressors still in place.

Landfill customers paying the City residential refuse service may dispose of refrigerators/freezers with freon free of charge. Landfill customers not paying for City residential refuse service may dispose of refrigerators/freezers with freon for a fee of \$23.00 per unit. (Ord. 1920, 09/03/96) (Ord. 1986, 12-01-09) (Ord. No. 1986, Amended, 12/01/98; Ord. 2002-19, 11/19/02)

I. Environmental Service Fee:

An Environmental Service Fee of \$2.00 per month, per City utility bill, shall be charged to fund City-wide Environmental Management Program work, including, but not limited to, Clean and Green and Conservation Education Programs.

(Ord. 2003-01, Amended, 01/07/2003; Ord. 2002-19, Amended, 12/23/2002; Ord. 2002-19, Amended, 12/23/2002; Ord. 2002-19, Amended, 11/19/2002; 2002-19, Amended, 11/19/2002; Ord. 2000-09, Amended, 05/02/2000)

SECTION 7-04-001-0009 DELINQUENT ACCOUNTS:

- A. All payments shall be due by the due date on the statement.
- B. An account shall be considered to be delinquent on the tenth (10th) day of the month following the month in which service was provided by the City.
- C. An account that is not paid by the due date shall be charged a penalty of ten percent (10%) of the accumulated delinquent fees per month.
- D. If a refuse collection account is not paid by the due date, the director may cease all refuse collection for that account unless otherwise directed by the City Manager. Service shall be resumed thereafter only on payment of the accumulated delinquent fees for the period of collection plus accrued penalties, unless the City Manager specifically directs otherwise.
- E. If a landfill account is not paid by the due date, the director may discontinue charging privileges until such time as the account is paid in full. Upon payment in full of the delinquent balance the landfill customer may re-establish charging privileges at the landfill, upon payment of a one thousand dollar (\$1,000.00) deposit, unless the City Manager specifically directs otherwise.
- F. Legal Remedy: The stoppage of services hereinbefore authorized for nonpayment of collection charges shall be in addition to the right of the City to proceed for the collection of such unpaid charges in a manner provided by law for the collection of a Municipal claim. (Ord. 1845, 11/01/94) (Ord. 1986, 12/01/98)

(Ord. No. 1764, Amended, 07/22/92; Ord. No. 1764, Amended, 07/21/92; Ord. No. 1845, Amended, 11/01/94; Ord. No. 1986, Amended, 12/01/98)

SECTION 7-04-001-0010 BURNING SOLID WASTES:

It shall be unlawful to attempt to burn solid wastes in any containers, vessel, or incinerator within the corporate limits of the City without written permission from the Fire Department. (Ord. 1609, 2/21/89)

(Ord. No. 1609, Amended, 02/21/89)

SECTION 7-04-001-0011 SOLID WASTES COLLECTION CONTRACTORS:

- A. General: No person, except as otherwise expressly provided in this chapter, shall collect or remove any garbage, refuse, recyclables, or other solid waste of any kind from the premises of any person, firm or company within the City, unless such person shall have first obtained from the City's tax, licensing and revenue division a license to conduct such collection or removal, as hereinafter provided.
- B. Exceptions to License Requirements: Notwithstanding the foregoing, no license shall be required of:
 - 1. An actual producer or property owner who personally removes and disposes of refuse in accordance with Section 0003.A of this Division;
 - 2. An arborist or gardening, landscaping or similar contractor who removes and disposes of refuse incident to the conduct of such business; or
 - 3 Northern Arizona University and any other instrumentality of the State of Arizona that provides for collection and/or removal of its own refuse.
- C. Application: An application for a solid wastes collection license shall be made in conformity with the general requirements of City Code Section 3-01-001-0005 relating to applications for licenses. The applicant shall also state the number of vehicles he intends to operate or use in said business and what method of disposal and the place thereof are proposed by the applicant. Applications for new licenses shall be approved by the Director of Public Works with respect to health, sanitation and safety provisions of the Code. Applications for renewal of licenses shall be accompanied by an inspection approval certificate for each piece of equipment from the Solid Wastes Division of the City, dated not earlier than sixty (60) days preceding the date of application.
- D. License Fee: The annual fee for each solid wastes collection license shall be fifty dollars (\$50.00) for each vehicle used by the licensee in this service, and each license shall expire twelve (12) months after its date of issue.
- E. No Representation by Unlicensed Haulers: No person who is not licensed in accordance with the provisions of this section shall represent himself

to the public as one who collects or disposes of solid waste within the City.

- F. License Plate or Tag: The City's Tax, Licensing and Revenue Division shall issue each person licensed in accordance with the provisions of this section a plate or tag for each collection vehicle used by such person in the activities licensed. Each such plate or tag shall be securely fastened and displayed at all times in a conspicuous place on each such vehicle.
- G. Term of License; License Nontransferable: Each license issued pursuant to the provisions of this section shall be valid for the calendar year for which it is issued and may be renewed upon application to the City's Tax, Licensing and Revenue Division and payment of the required fees, provided that the licensee has complied with all of the requirements of this chapter and all such other requirements as may apply to a new license application at that time. Licenses issued pursuant to the provisions of this section shall be nontransferable, and no permission or authority granted pursuant to any such license shall be delegated, subcontracted, assigned or otherwise transferred, whether for a consideration or not, although a licensee may transfer an identification plate or tag issued by the City's Tax, Licensing and Revenue Division to a replacement vehicle or the licensee upon five (5) days' prior written notice to the City's Tax, Licensing and Revenue Division.
- H. Revocation of License: the Tax Collector shall be authorized to revoke the solid wastes collection license if the licensee violates the conditions under which the license was issued, the provisions of this chapter, or the regulations authorized in connection with this chapter. From the time of revocation the license shall be void, and the amount paid for the license shall be forfeited to the City. (Ord. 1986, 12/01/98)(Ord. No. 1986, Amended, 12/01/98)

SECTION 7-04-001-0012 PENALTIES:

Any person or company engaging in the business of solid waste collection or disposal for which a license is required under this chapter without first having obtained such license shall be subject to the provisions of 3-01-001-0011 regarding criminal penalties and fines. (Ord. 1986, 12/01/98)(Ord. No. 1609, Ren&Amd, 2/21/89, 7-04-001-0013; Ord. No. 1642, Repealed, 11/07/89; Ord. No. 1986, Amended, 12/01/98)

**CHAPTER 7-05
SMOKING IN CITY FACILITIES**

SECTIONS:

<u>7-05-001-0001</u>	DEFINITIONS:
<u>7-05-001-0002</u>	SMOKING PROHIBITED; PENALTY:
<u>7-05-001-0003</u>	DESIGNATED SMOKING AREAS:

SECTION 7-05-001-0001 DEFINITIONS:

For the purposes of this Chapter:

CITY FACILITY: The interiors of any building owned or operated by the City of Flagstaff including, but not limited to, City Hall, City Court, fire stations, police station, library, recreation centers and maintenance and treatment plants.

DESIGNATED SMOKING AREA: Those areas designated, in writing, by the City Manager in which smoking shall be permitted.

TO SMOKE or SMOKING: Burning or carrying any lighted cigarette, tobacco or any other weed or plant or placing any burning tobacco, weed or plant in an ashtray or other receptacle and allowing smoke to diffuse into the air.

SECTION 7-05-001-0002 SMOKING PROHIBITED; PENALTY:

No person shall smoke in any City facility except in designated smoking areas. A violation of this Section is a petty offense punishable by a fine of not less than twenty five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Each occurrence shall be a separate offense. In no case shall a person convicted of a violation of this Section be eligible for suspension or commutation of sentence.

SECTION 7-05-001-0003 DESIGNATED SMOKING AREAS:

The City Manager, after due consultation with the effected department heads, shall designate smoking areas as he deems appropriate. In no case shall the City Manager be required to permit smoking in any specific City facility. The City Manager shall cause to have the appropriate signage posted as he deems necessary to inform employees and the public of the smoking prohibition and the location, if any, of designated smoking areas. (Ord. 1450, 8-5-86)

CHAPTER 7-06
SMOKING IN ENCLOSED PUBLIC PLACES AND IN THE WORKPLACE

SECTIONS:

<u>7-06-001-0001</u>	DEFINITIONS:
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SECTION 7-06-001-0001 DEFINITIONS:

- A. "Bar" shall mean an establishment with gross sales of alcohol equalling or exceeding gross sale of food. (Ord. 1846, 10/18/94)
- B. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes as well as professional corporations and other entities which provide legal, medical, dental, engineering, architectural, or other professional services.
- C. "Designated Smoking Area" means any area within an enclosed public place where smoking is specifically permitted, provided, however, that any Designated Smoking Area shall not exceed in area and size the non-smoking area, and shall be so situated as to allow non-smoking individuals a reasonable opportunity to conduct normal activity in a smoke free environment.
- D. "Employee" means any person who is employed by an employer for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- E. "Employee Work Area" means any areas within a place of employment which share a common ventilation, heating or air-conditioning system.
- F. "Employer" means any business or any non-profit entity.
- G. "Enclosed Athletic Recreation Area" means sports pavilions, gymnasiums, health spas, swimming pools, roller and ice rinks and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.
- H. "Enclosed Public Place" means any area closed in by a roof and walls with openings for ingress and egress which is available to and customarily used by the public. Enclosed public places governed by this Ordinance shall include, but not be limited to public areas including elevators, waiting rooms, reception areas, lobbies, rest rooms, retail stores,

retail service establishments, grocery stores, drug stores, shopping malls, theaters, auditoriums, private schools, offices of health care professionals, pharmacies, public transportation vehicles and terminals, airport waiting lounges, community centers, child care centers, hotel and motel public areas, financial institutions, all indoor facilities, any public places already regulated by A.R.S. 36-601-01, and restaurants. A private residence is not a "public place".

- I. "Non-Profit Entity" means any corporation, unincorporated association, or other entity created for charitable, educational, political, social, or similar purposes, the net proceeds from the operation of which are committed to the promotion of the objects or purposes of the organization and not to provide financial gain. A public agency is not a "non-profit entity" within the meaning of this section.
- J. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- K. "Place of Employment" means an enclosed area under the control of a private or public employer intended for occupancy by employees during the course of employment, including, but not limited to, work areas, offices, employee lounges, conference and meeting rooms, employee cafeterias and lunchrooms, classrooms, auditoriums, hallways, stairways, waiting areas and rest rooms. A private residence is not a "place of employment" unless it is used as a licensed child care or a health care facility.
- L. "Pool Hall" means an establishment devoted primarily to the playing of pool or billiards.
- M. "Private Club and Private Recreation Facilities" means an establishment, operated by an organization established for patriotic, fraternal, benevolent or recreational purposes, and has a Series 14 liquor license; or if no liquor is served on the premises, provides goods or services to members only and provides that persons are eligible for membership by payment of a nonrefundable fee of \$25 or more which fee shall not be applied to the cost of services or goods.
- N. "Restaurant" means an establishment with gross sales of food exceeding gross sales of alcohol, such as a coffee shop, cafeteria, sandwich stand with enclosed seating, soda fountain or ice cream shop, private or public school cafeteria, and any other eating establishment, organization, club, boarding house, or guest house which gives or offers food for sale to the public, guests, patrons or employees, except that the term "restaurant" shall not include a cocktail lounge if said cocktail lounge is contained within the establishment but physically separated from the remaining area by floor to ceiling walls and a door with a separate entrance or smoke-free lobby to the remaining area. (Ord. 1846, 10/18/94)
- O. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories.
- P. "Service Line" means an indoor line which one or more persons routinely wait for or receive service of any kind, whether or not such service includes the exchange of money.
- Q. "To smoke" or "smoking" means burning or carrying any lighted cigarette, tobacco or any other weed or plant or placing any burning tobacco, weed

or plant in an ashtray or other receptacle and allowing smoke to diffuse into the air. This provision excludes the burning of incense.

- R. "Waiting Room Space" Common area of any office, restaurant, theatre or any other facility where persons routinely wait. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Amended, 06/28/93; Ord. No. 1846, Amended, 10/18/94)

SECTION 7-06-001-0002 PROHIBITION AGAINST SMOKING IN ENCLOSED PUBLIC PLACES:

- A. Smoking shall be prohibited and such prohibition appropriately posted except as otherwise specifically set forth herein in all enclosed public places, including, but not limited to, the following:

1. Elevators and restrooms.
2. Buses, taxicabs and other means of public transit operated under the authority or franchise of the City of Flagstaff and ticket, boarding, and waiting areas of public transit depots.
3. Service Lines.
4. Retail Stores, except areas in said stores not open to the public and except all areas within retail tobacco stores.
5. Retail food marketing establishments, including grocery stores, convenience stores, supermarkets and any business or restaurant situated within such an establishment, except those areas of such establishments set aside as enclosed offices/areas thereof not open to the public, which may be otherwise regulated by this Ordinance.
6. All areas available to and customarily used by the public in all businesses and non-profit entities patronized by the public, including, but not limited to, such areas in business offices, banks, hotels and motels, including all areas controlled or regulated by the Uniform Fire Code, as adopted by the City of Flagstaff.
7. Public areas of aquariums, libraries, and museums when open to the public.
8. Any building not open to the sky which is used primarily for exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance, except when smoking is a part of any such production, then smoking shall be permitted in the production by the production's participants.
9. Enclosed athletic recreation area.
10. Waiting rooms of doctors' offices and dentists' offices, hallways, wards, and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, and physical therapy facilities.
11. Polling places.

12. Restaurants.

- B. Notwithstanding any other provision of this section, any owner, manager or other person who controls any establishment described in this section may declare the entire establishment or any portion thereof to be a non-smoking area. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0003 REGULATION OF SMOKING IN THE WORKPLACE:

- A. Within ninety (90) days after the effective date of this Ordinance, existing employers within the City of Flagstaff shall adopt, announce, post, implement and maintain a written smoking policy. Each new employer must also comply with these provisions within sixty (60) days of becoming an employer. Each employer's written smoking policy shall contain, at a minimum, the following requirements:
1. Designation of smoking and non-smoking areas.
 2. Provision and maintenance of non-smoking areas in break facilities which are physically separated from smoking areas to the degree reasonably practicable. However, in doing so, no employer is required to make any unreasonable expenditures or structural changes to the place of employment.
 3. The employer shall include a reasonable definition of the term "immediate work area" and use its best efforts to reasonably accommodate the preferences of non-smoking employees in their immediate work area.
 4. Both designated smoking areas and non-smoking areas must be clearly marked with appropriate signage.
 5. Employers shall advise prospective employees of their written smoking policy prior to hiring.
 6. Prohibition of smoking in employer cafeterias, meal facilities, restaurants, conference and meeting rooms, classrooms, auditoriums, restrooms, waiting areas, medical facilities, hallways, stairways and elevators.
 7. No employee shall be terminated or subject to disciplinary action solely as a result of his or her complaint about smoking or non-smoking in the work place.
- B. Notwithstanding the provisions of subsection (A) of this section, every employer shall have the right to designate any place of employment, or portion thereof, as a non-smoking area.
- C. If no accommodation reasonably satisfactory to all complaining employees can be reached in any given employee work area, the preferences of non-smoking employee(s) shall prevail and the employer shall prohibit smoking in that employee work area. The definition of "reasonable" shall be determined by the employer. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0004 SMOKING OPTIONAL AREAS:

- A. Notwithstanding any other provisions of the Ordinance to the contrary, the following areas shall not be subject to the smoking restrictions of this Ordinance:
1. Private residences.
 2. Bars and pool halls.
 3. Hotel and motel rooms rented to guests.
 4. Retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia.
 5. Onstage smoking as part of a stage production, ballet or similar exhibition.
 6. Hotel and motel and all other public and private conference/meeting rooms, while these places are being used exclusively for private functions.
 7. A private residence which may serve as an office work place.
 8. Private clubs and private recreation facilities.
 9. A non-retail business with no employees. (Ord. 1722, 12/17/91)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0005 SMOKING IN BOWLING ALLEYS:

- A. It is required that all bowling alleys prohibit smoking during all times when children's league bowling is conducted on the premises. It is further required that bowling alleys clearly post signs stating their smoking policy. Notice shall be posted on the exterior, plainly visible to prospective patrons, in the following manner:
1. This establishment does not provide a non-smoking section OR
 2. This establishment provides accommodations for both smoking and non-smoking patrons OR
 3. No smoking permitted in this establishment OR
 4. Bowling Alleys Only:
- his establishment provides accommodations for non-smoking patrons except during established adult league hours.
- B. Bowling alleys opting for option 2 and 4 above fall subject to the following requirements:

1. The owner or manager of any bowling alley must provide for and maintain a separate non-smoking area of not less than 50% of the total indoor seating capacity.
 2. Hosts, hostesses, owners or designated employees, if one is on duty, must ask guests upon making reservations or upon their arrival, whether or not the guests or bowlers/spectators prefer non-smoking areas. In the absence of the above named person, the non-smoking section shall be conspicuously posted as such.
- C. The required signage shall be furnished at City expense at no charge to businesses in existence as of June 18, 1993 to which this provision applies. Replacement signs or signs for new businesses, to which this provision applies, shall be purchased at a nominal fee from the City.
- D. Within 90 days of adoption of this Ordinance, bowling alleys shall notify the City regarding their choice of compliance, at which time they shall receive City provided signs. Any change in choice of compliance must be filed with the City at least fifteen (15) days before bowling alleys can change their policy. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0006 SHOPPING MALLS:

- A. Smoking shall not be permitted in retail stores within shopping malls as provided in Section 7-06-001-0002(A)-4, Retail Stores.
- B. The owners or managers of the shopping mall shall be permitted to establish designated smoking areas, but in no case shall the designated smoking areas be located within a common area of the mall. Designated smoking areas must be so situated as to allow non-smoking individuals reasonable opportunity to conduct normal activity in a smoke-free environment.
- C. Within the mall, "No Smoking" and "Smoking" areas shall be clearly designated and conspicuously posted.
- D. Ash urn placement shall be limited to designated smoking areas, serving to discourage smoking patrons from strolling in the mall while smoking or from using non-smoking rest/seating areas. Urns located outside mall entrances shall be located as near as possible to a No Smoking sign.
- E. Mall security personnel shall have the same responsibility as management to inform violators that smoking is restricted to designated areas.
- F. Public restrooms within the mall must be designated and conspicuously posted as non-smoking areas as provided in Section 7-06-001-0002(A)-1, Restrooms. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Ren&Amd, 05/04/93, 7-06-001-0007)

SECTION 7-06-001-0007 POSTING REQUIREMENTS:

- A. Within ninety (90) days after June 18, 1993, any person who owns, manages, or otherwise controls an enclosed public place falling under the provisions of this Ordinance shall post "Smoking", "No Smoking", "No Smoking Except in Designated Areas", the international "Smoking" symbol (consisting of a picture of a burning cigarette inside a circle, or "No Smoking" symbol (consisting of a picture of a burning cigarette inside a red circle with a red bar across it) or other appropriate signs as required by this Chapter.
- B. Posting includes the posting of signs at all times and their continual maintenance.
- C. Signs shall be clearly and conspicuously posted at all public entrances of the establishment by the owner, manager, employer or other person in control in every place where smoking is controlled by this Ordinance. Clearly and conspicuously shall mean that the average person is able to see the sign without undue effort.
- D. The required signage shall be furnished at City expense at no charge to businesses in existence on June 18, 1993 to which this Ordinance applies. Replacement signs or signs for new businesses, to which this Ordinance applies, shall be purchased at a nominal fee from the City. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. 1807, Ren&Amd, 05/04/93, 7-06-001-0006)

SECTION 7-06-001-0008 PENALTIES AND ENFORCEMENT:

- A. In addition to any other duty contained herein, any owner, manager, or employer is required to do the following to be in compliance with this ordinance:
 - 1. Post signs required by the Ordinance in a conspicuous place, pursuant to Section 7-06-001-0007;
 - 2. Adopt a written smoking policy pursuant to Section 7-06-001-0003; and
- B. In addition to any other duty contained herein, any owner, manager, employer or employee upon either observing or being advised of a violation of REGULATION OF SMOKING IN ENCLOSED PUBLIC PLACES, shall advise the violator that smoking is prohibited under City Ordinance and advise the smoker to extinguish the smoking material and shall call the police if the smoker refuses to comply.
- C. Any person found guilty of violating any of the provisions of this Ordinance shall be found guilty of a petty offense and upon conviction thereof shall be fined not less than \$25.00, nor more than \$300.00. Each occurrence or day that a violation continues shall be a separate offense, punishable as described above. In no case shall a person convicted of a violation of this section be eligible for suspension of their fine.

- D. Complaints relating to this Ordinance should be filed with the City of Flagstaff Police Department or the Flagstaff City Manager's Office or the City Manager's designee. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. Amended, 07/21/94; Ord. No. 1807, Amended, 05/04/93; Ord. No. 1846, Amended, 10/18/94)

SECTION 7-06-001-0009 EXEMPTIONS FOR RESTAURANT HARDSHIP CASES:

- A. An owner of a restaurant may be granted an exemption from the requirements of this Ordinance on a showing that an undue hardship has resulted to the business of the restaurant as a result of complying with the provisions of this Ordinance, and such exemption would not be detrimental to the employees of the restaurant.
- B. An application for an exemption pursuant to this subsection shall be made to the City Manager or the City Manager's designee and shall be in writing. The application shall set forth the reasons why the requirements of this Ordinance have resulted in an undue hardship, and shall compare sales receipts for a three month period of compliance to the Ordinance with the same period of time prior to the effective date of this Ordinance. It shall also contain a statement by the employer that such an exemption would not be detrimental to any of its employees.
- C. Upon receiving an application, the City Manager or the City Manager's designee shall appoint a City Hearing Officer to hear the application. The owner and all employees of the restaurant shall be given a minimum of one week's written notice by the Hearing Officer of the date, time and place of the hearing. The owner and all employees shall be given an opportunity to be heard at the hearing. The owner shall publish a public notice in the local newspaper a minimum of one week prior to the hearing, and the public will be invited to the hearing to speak. The owner shall provide an affidavit of publication to the Hearing Officer at the time of the hearing. If the Hearing Officer finds that compliance with the requirements of this Ordinance would be an undue hardship, that the restaurant has experienced a 15% or more loss of gross sales due to the Ordinance requirements, and that an exemption would not be detrimental to any of the employees, the Hearing Officer may grant an exemption.
- D. Exempted restaurants will be required to post signs that indicate that "This restaurant permits smoking, which is known to cause cancer, heart disease, and lung diseases in smokers as well as non-smokers". Signs will be provided by the City. Posting requirements will be consistent with the Posting Requirements of this Ordinance as set forth in Section 7-06-001-0007.
- E. The decision to grant or deny a restaurant an exemption shall be a final decision and shall be appealable by special action to Superior Court. (Ord. 1807, 05/04/93)

(Ord. No. 1622, Enacted, 06/06/89; Ord. No. Amended, 07/21/94; Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0010 EXAMINATION OF RECORDS:

- A. The City Manager or the City Manager's designee may require a business owner to provide and may examine any books, records, or other documents of any business which is subject to classification as a bar or restaurant under this Ordinance for a time period up to one year prior to and subsequent to the date of the classification.
- B. In order to perform any examination authorized by this Chapter, the City Manager or the City Manager's designee may issue an Administrative Order for the attendance of witnesses or for the production of documents, as provided by regulation.
- C If a business owner fails or refuses to furnish any information requested in writing by the City Manager or the City Manager's designee the business owner may be found to be in violation of this Ordinance.
- D. Whenever a business owner fails or refuses to furnish any information requested in writing by the City Manager or the City Manager's designee, the business will be presumed to be a restaurant for purposes of this Ordinance. Such a presumption can only be overcome by clear and convincing evidence including the production of the requested documents.
- E. No official or employee of the City of Flagstaff shall make known information obtained pursuant to this Chapter concerning the business, financial affairs or operations of any person. Business records obtained for making the determinations under this Ordinance shall not be public records. (Ord. 1846, 10/18/94)

(Ord. No. 1807, Enacted, 05/04/93; Ord. No. 1846, Ren&Amd, 10/18/94,)

SECTION 7-06-001-0011 SEVERABILITY OF PROVISIONS:

If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be severable. (Ord. 1807, 05/04/93)(Ord. No. 1807, Amended, 05/04/93)

SECTION 7-06-001-0012 EMERGENCY CLAUSE:

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City and for the further reason that this Ordinance amends and clarifies Ordinance No. 1722 which shall go into effect on June 18, 1993. Therefore, an emergency is hereby declared to exist, and this Ordinance is enacted as an emergency measure and will be in full force and effect as of June 18, 1993 upon passage and adoption by the Council of the City, as required by law, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona. (Ord. 1807, 05/04/93)(Ord. No. 1807, Enacted, 05/04/93)

CHAPTER 7-07
SOLID FUEL BURNING DEVICES

SECTIONS:

<u>7-07-001-0001</u>	DEFINITIONS:
<u>7-07-001-0002</u>	GENERAL RULES AND STANDARDS:
<u>7-07-001-0003</u>	INSTALLATION:
<u>7-07-001-0004</u>	VIOLATIONS:

SECTION 7-07-001-0001 DEFINITIONS:

- A. "Antique Wood Heater" means a wood heater or fireplace insert manufactured prior to 1940 that has an ornate construction and a current market value substantially higher than a common wood heater or fireplace insert manufactured in the same time period and whose primary purpose is decorative.

This appliance is exempt from the emission standards and requirements of Section 2 with the following stipulation. An antique wood heater shall not be used on a regular basis as a sole source of heat to maintain a habitable room temperature.

- B. "Certified Device" means a wood heater or fireplace insert, which has been certified in accordance with current standards adopted by the Environmental Protection Agency.
- C. "Coal" means a mineral substance consisting of carbonized vegetable matter.
- D. "Cook Stove" means wood-fired appliance that is designed primarily for cooking food and that has the following characteristics:
1. An oven, with a volume of 0.028 cubic meters (1 cubic foot) or greater, and an oven rack,
 2. A device for measuring oven temperatures,
 3. A flame path that is routed around the oven,
 4. A shaker grate,
 5. An ash pan,
 6. An ash clean-out door below the oven, and
 7. The absence of a fan or heat channels to dissipate heat from the appliance.

This appliance is exempt from the emission standards and requirements of Section 2.

- E. "Open Masonry Fireplace" means a hearth and fire chamber of solid masonry units such as bricks, stones, listed masonry units, or reinforced concrete, provided with a suitable chimney.

Open masonry fireplaces without modification to create an air-starved operating condition, are exempt from the emission standards and requirements of Sections 2 and 3.

- F. "Fireplace Insert" means a factory-built, field-installed product consisting of a firebox assembly designed to be installed within or partially within the fire chamber of a fireplace that uses the fireplace flue to vent the products of combustion.

This appliance must meet the emission standards and requirements of Section 2 and 3.

- G. "Pellet Burner" means a solid fuel burning device designed to heat the interior of a building. It is a forced draft heater with an automatic or manual feed which supplies appropriately sized feed material or compressed pellets of wood or other biomass material to the firebox.

This appliance must meet the emission standards and requirements of Sections 2 and 3.

- H. "Solid Fuel Burning Appliance" means a chimney-connected device that burns solid fuel designed for purposes of heating, cooking or both. These appliances include wood heaters and fireplace inserts.

- I. "Stove Kit" means a kit that may include a door, legs, flue pipe and collars, brackets, bolts and other hardware and instructions for assembling the wood heater with ordinary tools.

Wood heaters built from such kits must meet all emission standards and requirements of Sections 2 and 3.

- J. "Boiler" means a solid fuel burning appliance used primarily for heating spaces, other than the space where the appliance is located, by the distribution through pipes of a gas or fluid heated in the appliance.

This appliance is exempt from the emission standards and requirements of Section 2.

- K. "Furnace" means a solid fuel burning appliance that is designed to be located outside of ordinary living areas and that warms spaces other than the space where the appliance is located, by the distribution of air heated in the appliance through ducts.

This appliance is exempt from the emission standards and requirements of Section 2.

- L. "Structure" means anything which is built or constructed, an edifice or building of any kind, or any piece of work that is artificially built up or composed of parts joined together in some definite manner.

- M. "Uncertified" means a wood heater or fireplace insert that cannot be verified as meeting the certified standards.

- N. "Wood Heater" means an enclosed wood burning appliance capable of, and intended for space heating and domestic water heating that meets all of the following criteria:

1. An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1,
2. A usable firebox volume of less than 20 cubic feet,
3. A minimum burn rate less than 5 kilograms per hour, and
4. A maximum weight of 800 kilograms.

Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air-starved operating conditions of a wood heater, must meet the emission standards if they meet the criteria in the above definition with those accessories in place.

Wood heaters may include wood stoves, prefabricated fireplaces or any solid fuel burning appliances that meet the criteria in the above definition, unless the solid fuel burning appliance is specifically exempted below.

Wood heaters do not include open masonry fireplaces, barbecue devices, gas-fired fireplaces, boilers, furnaces, antique wood heaters or cook stoves.

In the event that a definition hereby defined is unclear or raises a conflict, the standard definitions as set forth by the United States Environmental Protection Agency shall prevail. (Ord. 1803, 09/06/94)

(Ord. No. 1664, Enacted, 06/05/90; Ord. No. 1803, Amended, 09/06/95)

SECTION 7-07-001-0002 GENERAL RULES AND STANDARDS:

- A. Commencing July 1, 1990, it is unlawful for any person to advertise, sell, offer to sell or install any wood heater or fireplace insert in any structure within the City of Flagstaff if it emits more than the EPA Phase I standard of 8.5 grams of particulate matter per hour for a non-catalytic appliance or 5.5 grams of particulate matter per hour for a catalytic appliance. Commencing July 1, 1992, the standard shall be the EPA Phase II standard of 7.5 grams of particulate matter per hour for a non-catalytic appliance and 4.1 grams of particulate matter per hour for a catalytic appliance. The presence of an EPA certification label on a device is evidence the device meets these standards.
- B. On or after July 1, 1990 no coal shall be burned by any person within the City of Flagstaff.

(Ord. No. 1664, Enacted, 06/05/90)

SECTION 7-07-001-0003 INSTALLATION:

- A. Commencing July 1, 1990 no person shall install a wood heater or fireplace insert without first obtaining a permit from the building department for such installation in accordance with the applicable provisions of the Uniform Building Code and Uniform Mechanical Code as adopted by the City of Flagstaff. Commencing July 1, 1990 installation of

a wood heater or fireplace insert shall comply with all written manufacturer's specifications. A wood heater or fireplace insert shall not be operated until after its inspection and approval, upon completion of the installation, by the City Building Inspector or his designee.

(Ord. No. 1664, Enacted, 06/05/90)

SECTION 7-07-001-0004 VIOLATIONS:

A. A violation of Sections 2 and 3 of this Ordinance of the Flagstaff City Code is declared to be a misdemeanor.

B.

1. Advertising, selling, offering to sell an uncertified wood heater or fireplace insert, or installing any wood heater or fireplace insert in any structure without having obtained a required permit is punishable by a fine of \$100.
2. A second offense is punishable by a fine of \$300.
3. A third offense is punishable by a fine of \$500.
4. Subsequent offenses are each punishable by a fine of \$1,500.

C.

1. A violation of Section 2 of this Ordinance by any person is punishable by a fine of \$100.
2. Subsequent violations are each punishable by a fine of \$1,000.

D.

1. A violation of Section 3 of this Ordinance by any person is punishable by a fine of \$100.
2. Subsequent violations are each punishable by a fine of \$1,000.

E.

1. Any wood heater or fireplace insert that is not in compliance with Sections 2 and 3, shall be removed or replaced with certified wood heaters or fireplace inserts within 30 days of notification, or the owner will be subject to a fine of \$10 per day until the non-complying wood heaters or fireplace inserts are removed or replaced.

F.

1. The term "subsequent violation" means a violation that has occurred after a conviction and sentence for an earlier violation.
2. Upon conviction of a fifth subsequent violation, a later violation of any provision of this Article shall be punishable by a fine of \$2,500.

- G. The violation of a provision of this Code by an employee of a firm while engaged in business on behalf of the firm shall be deemed to be a separate violation by the employee and by the managing owner, partner, or officer of the firm.
- H. A violation of any provision of this Article not included within Subsections A-G above, shall be punishable by a fine not to exceed \$500.
(Ord. 1664, 6/5/90)

(Ord. No. 1664, Enacted, 06/05/90)

CHAPTER 7-08
RECAPTURE OF DEVELOPMENT FEE FOR THE CONSTRUCTION OF WATER AND SEWER LINES

SECTIONS:

<u>7-08-001-0001</u>	DEFINITIONS:
<u>7-08-001-0002</u>	POLICY GOVERNING EXTENSION OF WATER AND SEWER LINES:
<u>7-08-001-0003</u>	REPEAL OF CONFLICTING PROVISIONS:
<u>7-08-001-0004</u>	PROVISION FOR THE RECAPTURE OF PORTIONS OF THE COST OF CONSTRUCTION:
<u>7-08-001-0005</u>	DETERMINATION OF CONSTRUCTION REQUIREMENTS: WATER LINES AND SEWER COLLECTION SYSTEMS:
<u>7-08-001-0006</u>	DETERMINING THE BOUNDARIES OF A RECAPTURE DISTRICT FOR WATER OR SEWER LINES; AND ALLOCATING THE COSTS OF CONSTRUCTION WITHIN RECAPTURE DISTRICTS:
<u>7-08-001-0007</u>	ASSESSMENT OF COSTS BY DEVELOPMENT AGREEMENT AND ORDINANCE; RECORDING; AND PROCEDURE:
<u>7-08-001-0008</u>	LIEN AND ENFORCEMENT:

SECTION 7-08-001-0001 DEFINITIONS:

The definitions set forth below shall be applied for the interpretation and enforcement of the provisions of this Ordinance.

Words or terms that are used in one definition and that are defined in another appear in bolded type.

- A. Assessor: The property tax assessor's office of Coconino County, Arizona.
- B. Assessor's Parcel: A parcel of land separately identified as under one ownership by the ASSESSOR for the purpose of levying a real property tax.
- C. City: The word "City," when the "C" is capitalized, shall mean the City of Flagstaff, Arizona.
- D. Cost of Construction Subject to Recapture: The term shall mean that portion of the actual costs of constructing a water or sewer line that are eligible for assessment and recapture upon the formation of a RECAPTURE DISTRICT under the provisions of this Ordinance.
 - 1. The individual elements of cost that may become eligible for recapture shall be a portion of the costs incurred for the construction of a water or sewer line required to serve the DEVELOPMENT, and located outside of the boundary of the DEVELOPMENT; and a portion of the cost of constructing water TRANSMISSION and SUPPLY lines within the boundaries of the DEVELOPMENT; and may include a portion of the cost of water DISTRIBUTION lines under the circumstances described in subparagraph 2.a. below.
 - 2. Recoverable costs shall be limited to the DIRECTOR authorized and approved engineering design and construction drawing fees, the cost of land required for public easements outside the boundaries of the DEVELOPMENT and required to bring services to the RECAPTURE DISTRICT; the cost of excavation, engineered fill and backfill; the cost of City required landscaping; and the amount of the fee

authorized to be charged by the Utilities Department to defray the costs of the design or formation of a RECAPTURE DISTRICT.

- a. in regard to water lines, the further elements of cost for the individual sections of pipe that will be laid for TRANSMISSION and SUPPLY lines within and without the boundary of the DEVELOPMENT; and the cost of DISTRIBUTION lines available to other properties and without that boundary; together with the cost of the associated valves, connections, pumps, hydrants, and other fixtures; except that the cost of constructing DISTRIBUTION and SUPPLY lines within the DEVELOPMENT shall not be subject to recapture if all of the capacity of the line is required within the boundaries of the DEVELOPMENT to meet its service needs, or to meet the Fire Department's water pressure and rate of flow requirements within the DEVELOPMENT; or
 - b. in regard to SEWER LINES, the further elements of cost for the construction of lines of any size or the upsizing of lines that may be required outside of the DEVELOPMENT; together with the pumps and other appliances or devices required within or adjacent to the existing lines to transmit the volume of sewage required for the DEVELOPMENT, together with the volume of sewage reasonably expected to be generated within the natural drainage basin that includes the DEVELOPMENT.
 - c. The costs may not include, for either water or sewer lines, the cost of easement acquisition within the DEVELOPMENT; nor a cost or allowance for preconstruction preparation, planning and effort by the DEVELOPER.
- E. Developer: The word "Developer," when the "D" is capitalized, shall mean a person or entity who proposes to construct a development upon land owned by the Developer or with permission of the owner, when the person or entity proposes to advance and pay the cost of extending water or sewer lines across land not owned by the Developer and not then undergoing development.
- F. Development: The word "Development," when the D is capitalized, shall refer to the construction of a building or structure within the CITY that will require the extension or upsizing of a water or sewer line to serve the premises under construction.
- G. Director: The word "Director," when the "D" is capitalized, shall mean the Director of the Utilities Department of the CITY.
- H. Recapture District: The term shall mean an area of land within which new connections for service shall be subject to the assessment of a development fee to defray the cost of having installed a water or sewer line to bring service to the area.
- I. Recapture Agreement: The term shall mean a contractual agreement between a DEVELOPER and the CITY which has been approved by the City Council as part of an ordinance approving the creation of a specific RECAPTURE DISTRICT (or districts) and by which the CITY assumes an obligation to collect and remit fees assessed as authorized by the provisions of this Ordinance.

J. Sewer Line: That portion of a sewer collection system that is without the boundaries of an individual parcel of land connected to the City's public sewer collection system. The term "Sewer line" is more broad than the term "sewer pipe"; and is used to include "pipe" as well as all of the other components of the system required to collect and transmit waste water and sewage.

K. Water Lines: Classification:

1. Transmission line. A water line of 18 or more inches in diameter.
2. Supply line. A water line of at least 12 inches in diameter, but not including transmission lines.
3. Distribution line. A water line that serves two or more parcels of property under separate ownership and large enough to deliver the water required by all of the parcels crossed, as well as the volume of water and amount of pressure required for fire flow purposes in the local area of service.
4. Water service or "connection" lines. That portion of a water line that is installed to connect a customer to the City water system, and between the customers building or structure and the DISTRIBUTION line to which the customer connects.

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0002 POLICY GOVERNING EXTENSION OF WATER AND SEWER LINES:

- A. Prior to the adoption of this Ordinance, the City's policy and requirements for the extension of water and sewer lines was set forth in Ordinance No. 1663; in subdivision regulations contained in the 1992 Land Development Code; in the Uniform Fire Code; and in the Engineering Standards. This Ordinance supplements those requirements and creates new provisions to authorize the partial recapture of costs expended to construct water and sewer lines in specified situations.
- B. A Developer may propose to advance the cost of constructing improvements to a water or sewer line when an upsizing or extension would be required to provide an adequate level of service to a planned Development. A portion of the cost may become subject to recapture when the construction will provide a benefit to lands outside of the Development being planned.
- C. The recapture shall be accomplished by the assessment of a development fee to offset the costs of construction to the lands specially benefitted thereby, as authorized by ARS 9-463.05.
1. Because the existing "capacity fees" authorized by prior ordinance represent only a pro rata share to "buy into" the costs of existing water acquisition, processing plant, water transmission, storage and distribution systems, the sewage collection lines and treatment plants, the development fee created by this Ordinance is a new fee separate from the capacity fee.
 2. The costs assessed and funds raised by this development fee are limited to portions of the actual costs incurred in installing a

water distribution system or a sewer collection system in specific, separately defined areas. That portion of actual costs that may become subject to recapture are defined as the "Cost of Construction Subject to Recapture" in Section 7-07-001-0001 of this Ordinance, supra. The fee will be assessed, collected, accounted for, and remitted to the Developer that incurred and paid the cost of providing service to a specific geographical area, as defined and provided in a Recapture Agreement. When a portion of the cost has been paid or will be paid or financed by the City, the proportion of the costs paid or to be financed or paid by the City shall be recaptured by the City as each of the assessed and levied fees are collected.

3. The creation of the development fee to recover the specific costs authorized by this Ordinance shall not preclude the City from authorizing further development fees to recover costs of providing other beneficial services to a development that may be identified as being subject to recovery by special assessment.
- D. The provisions of this Ordinance, when otherwise applicable, shall authorize the formation of Recapture Districts for the possible recovery of costs for Developments for which a City building permit was issued from and after May 15, 1994.
- E. Water and Sewer Lines: Ownership. Transmission lines, supply lines, distribution lines, and sewer lines shall always be owned by the City.

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0003 REPEAL OF CONFLICTING PROVISIONS:

The provisions of this Ordinance are intended to supersede portions of prior legislation that are found to be in conflict with provisions of this Ordinance. The provisions of this Ordinance are also intended to be controlling principles; i.e. the principles and policies of this Ordinance will be used to interpret or to apply other provisions of the City or uniform codes that regulate the construction of water or sewer lines. The controlling principles are stated to be:

- A. Recoverable costs may be "recaptured" by the levy of an assessment upon areas of land that will benefit by the addition of the capacity provided by the authorized construction.
- B. Water and sewer lines for which a recapture of costs will be sought shall become public infrastructure upon completion. If constructed and paid for by a Developer, they shall be dedicated to the City by recordation of an approved plat map, or by an approved conveyance establishing City ownership of the line and creating a public easement of the width required by the City's Engineering Standards.
- C. All water and sewer lines for which a recapture will be sought shall be publicly bid and bonded as other public works according to the provisions of Title 34 of the Arizona Revised Statutes.
- D. The recapture provisions shall not be applied to authorize a private developer to recapture the costs of providing water and sewer lines

within a subdivision or minor land division when their installation at that Developer's expense is required by the Land Development Code or by Ordinance No. 1663 (or an ordinance that is stated to supersede 1663); except that the cost of the required construction that provides sufficient capacity to serve lands other than those under development may be subject to recapture.

- E. The construction of new development within the City limits shall require the installation of water and sewer lines and their connection to the City water and sewer systems, except for new construction in existing subdivisions that became approved and platted before 1992, and when no requirement was then or has since been imposed to require installation and connection to existing water and sewer service.
- F. The owners of property within those platted but unserved areas may chose to form a special improvement or a facilities service district at any time; or, the City may elect to invoke the authority of ARS 9-463.05 to cause the construction of water and/or sewer lines and to assess the cost of the construction to the properties to be served thereby, and requiring both already developed property and property being developed to connect to the newly installed lines.

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0004 PROVISION FOR THE RECAPTURE OF PORTIONS OF THE COST OF CONSTRUCTION:

A Developer who will incur and pay all or part of the cost of extending a new or upsizing an existing line shall have the right to request the designation of a Recapture District and to enter a Recapture Agreement that would offer the Developer the possibility of gaining a partial repayment of the costs incurred in the construction of water and sewer lines that are necessary to provide services to the Development. The City shall determine if new development can occur on nearby properties that are not part of or related to the property under development and, if so, will define and create a Recapture District, shall act to assess the costs of construction following completion and payment therefor, and shall enter a Recapture Agreement with the Developer.

- A. Request for Creation of a Recapture District: An applicant shall, prior to preparing construction plans and drawings, file a written request for the creation of a Recapture District with the City Utilities Department. The request shall outline the scope of the planned development and the proposals for the provision of water and sewer lines. The Department shall determine the size and location of the lines to be required, the area of land to receive new service, and the separate area or areas that, although not to be immediately newly served, will benefit from the present construction at a later time by virtue of having gained an improved ability to access the City water or sewer system.
- B. Costs of Construction Subject to Recapture:
 - 1. Those costs of construction that may become subject to recapture are defined in Section 7-08-001-0001 of this Ordinance as the "Cost of Construction Subject to Recapture."

2. To become eligible for recapture, the Developer must have obtained prior approval of the design and construction plans; must have bid the projects in conformance with Title 34 of the Arizona Revised Statutes; and must have caused and paid for the line to have been constructed in compliance with the approved design and plans; all as verified by City inspection during construction, so that the line can become accepted by the City upon completion.

(Ord. No. 1847, Enacted, 10/18/94)

**SECTION 7-08-001-0005 DETERMINATION OF CONSTRUCTION REQUIREMENTS: WATER LINES
AND SEWER COLLECTION SYSTEMS:**

- A. The Director shall establish a master plan for the provision of water lines and service and of sewer collection systems to developable lands within the urban service boundary, and taking into consideration the restrictions or requirements placed on the design of that system by areas outside of that boundary.
 1. The master plan shall show the planned routes, and the sizes of Water Supply and Transmission lines, and of sewer lines required to service the area being planned for the level of development proposed by the City's then current general plan, and allowing extra capacity for an assumed level of commercial and industrial development appropriate to service the likely levels of residential development.
 2. The master plan may be done in stages or by the sequential selection of logical areas; or the Director may choose to define the overall requirements likely to be needed throughout the City, and work down to specific areas; as he may determine, or as computer or other modeling devices may suggest.
 3. From and after completion of a plan for an individual area, or of the entire plan if that method is chosen, the Director will periodically monitor ongoing development and shall modify the plan as reasonably required by actual levels of development.
 4. When proposing development within a planned area, the Developer may be required to construct those elements of water Transmission and Supply Line segments and sewer collection systems in the sizes shown on the master plan that are either located within the boundaries of the Development, or located off the site of the Development, but are needed to deliver water service or to provide sewer collection service to the Development.
 5. The portion of construction costs that may become eligible for recapture shall be those identified in Section 7-08-001-0001.D of this Ordinance as the "Cost of Construction Subject to Recapture."

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0006 DETERMINING THE BOUNDARIES OF A RECAPTURE DISTRICT FOR WATER OR SEWER LINES; AND ALLOCATING THE COSTS OF CONSTRUCTION WITHIN RECAPTURE DISTRICTS:

- A. The Director shall establish the boundaries to be proposed for inclusion in a Recapture District by applying the guidelines set forth in this Section.
- B. Size of District and Properties to be included:
 - 1. In proposing district boundaries, the Director shall include all of an assessor's parcel when the construction shall place a water or sewer line (of any size) upon any portion of that parcel and would be available to serve every portion the parcel, or where the parcel will eventually be served by attachment to a nearby water distribution, supply or transmission line; or to a nearby sewer line.
 - 2. The Director shall identify the areas of land to be proposed for inclusion within a Recapture District after considering:
 - a. The proximity of the Urban Service Boundary and the character and future requirements of land beyond that Boundary; and
 - b. the proposed land use of the area to be developed and the existing zoning or proposed rezoning within, adjacent and nearby the area of the proposed Development; and
 - c. the size and location of existing water and sewer lines in relation to the demand to be imposed by the new lands to be served, the topography and natural drainage of the area to be served, and the hydrological and engineering considerations that may affect the design and construction of the lines; and
 - d. a comparison of the possible costs and of any increase in efficiency, or other system or area wide advantage to be gained from various manners of providing service by oversizing existing lines or by providing duplicate lines.
 - 3. Following the analysis of the size and type of lines that will be needed, the Director shall propose the formation of a service area and of a Recapture District (or Districts) that will result in an efficient and economical provision of services and a rational assessment of the cost to provide those services over the lands benefitted thereby. In doing so, the Director may propose separate and distinct boundaries for water and sewer Recapture Districts as the topography, existing infrastructure and possible area and location of future demand may dictate or suggest.
 - 4. The intention of this Ordinance in regard to the land to be included within or excluded from a District is illustrated in Exhibit A to this Ordinance.
- C. Layering Districts:
 - 1. The Director will propose the creation of as many districts as may reasonably be required to spread the cost of particular elements over areas that each of those elements will serve. For example,

elements of cost for water supply lines may benefit larger areas than the area to be served by the distribution lines needed for the project currently under development; and elements of cost for water transmission lines, valves, storage tanks or pumps may benefit even larger areas. If so, the costs of constructing those elements should be spread over the larger area (and the largest area) that each element will serve.

2. In that case, the area that will benefit from the construction will be assessed its share of the costs allocable to each of the Recapture Districts established to spread the cost of the transmission or supply lines, and of the sewer lines, that are being built to serve the area. The cost of Distribution lines and local sewer lines that serve only the Development, and other costs for the provision of local services within the Development that do not benefit other properties will not be subject to recapture.
 3. Recapture Districts may be created to include part or all of another or of an earlier District when additional construction is required to serve land within an existing District. That would be necessary when, for example, the construction of one or more water Supply lines follows the earlier construction of a water Transmission line, and when the cost of the larger line was spread over a larger area that includes the area now gaining supply lines. When that or similar events occur, the series of separate assessments that have been levied upon a parcel by inclusion in more than one District shall cumulate; and each and every of them shall be payable when development occurs upon that parcel.
- D. Allocating costs within a District: The Costs of Construction shall be allocated among properties within a Recapture District according to the rules of this subsection D.
1. Parcels within an approved and recorded plat of subdivided lands having installed and available water and sewer lines shall not be assessed costs within a Recapture District created after the plat recordation date, whether or not those parcels have become connected to the City lines.
 - a. "Installed and available" shall mean, for water lines, a line within an easement or other public right of way upon, adjacent to, or across any side of the parcel to be served;
 - b. "Installed and available" shall mean, for a sewer line, a line within an easement or other public right of way upon, adjacent to, or across any side of the parcel to be served; and located within an area that would allow the service required upon the lot to flow to the proposed point of connection.
 2. Parcels of land within areas of lands not included within an approved and recorded plat of subdivision that have not become connected to City sewer or water; and parcels of land within approved subdivisions that do not have installed and available water or sewer lines shall be subject to assessment within new Recapture Districts that will provide them with the benefit of service from the type of line or service to be installed.

"Installed and Available" shall have the same meaning in this paragraph as in subparagraphs 1.a. and 1.b. immediately above.

3. In all cases in subparagraphs 1. and 2. immediately above, a change that occurred in the use of a parcel enjoying service that increased the demand for water or for sewer, or for both within the five years preceeding the Notice of Intention to create a Recapture District, or a change in the zoning to a more intensive category that occurred after the construction of the existing water or sewer lines, and prior to the formation of the new district, shall remove the protection of the grandfather provision and subject the property to assessment for the costs of districts formed. Changes in use or zoning that occur after the creation of a district will become subject to the imposition of a separately authorized "occupancy" fee or other development fee, as may be appropriate.
4. The computation of costs to be assessed within a Recapture District shall be made as set forth in this subparagraph 4. Following the policies set forth in this Ordinance, the Director shall:
 - a. determine the elements of cost that were authorized and approved for the design and construction of the water and sewer lines;
 - b. determine the areas of benefit for the specific cost elements of the installed lines and systems;
 - c. working from the larger areas of benefit to the smaller, assign the elements of cost over the areas of benefit to determine the number and size of the Recapture Districts that will have to be formed to allocate the cost elements over the area that each of them serves;
 - d. determine the level of demand for water and sewer capacity within the Development and its effect on the design requirements for the surrounding areas that should be served by the transmission and supply lines and the sewer lines that will service the Development area.
 - (1) the levels of demand are to be determined by applying the specifications and formulae set forth in Title 9 of the 1993 edition of the "City of Flagstaff Engineering Design and Construction Standards and Specifications," and by making the calculations required to predict the demand according to the existing or the more specific proposed actual use of the individual parcels of land within the District or Districts to be formed.
 - (2) the adoption of this Ordinance shall have the effect of repealing Chapter 9-05 of Title 9 of the Standards and Specifications, entitled "RECAPTURE AGREEMENT," which is to be considered to have been superseded by the provisions of this Ordinance.
 - (3) the Director shall apply the most recent revisions of Title 9 of the Standards and Specifications as they may from time to time be adopted.

- e. allocate the total of the costs assigned to each District over the assessor's parcels within that District according to the level of demand established by the zoning category or more specific proposed actual use of a parcel.
- f. in doing so, adhere to the principle that the cumulation of costs applicable to parcels within the area of new development that gave rise to the need to form the Recapture District or Districts are to be allocated to those parcels but, being the responsibility of the Developer, are not subject to recapture, and are not to be assessed and levied against those parcels.
- g. prepare a chart showing the assessment against each of the assessor's parcels within a District in a manner that also displays the separate charges from each District to be assessed against each parcel that is included within more than one district. The chart should also display the total cost and the allocation of cost within each District.
- h. prepare a Notice and Certificate of Assessment for each parcel to be assessed, showing the separate assessments from each District that apply to a parcel. The Notice and Certificates will reflect the assessor's parcel number, and shall be recorded when the Cost of Construction Subject to Recapture has been determined, and the actual and final amounts of the sums to be assessed are known.

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0007 ASSESSMENT OF COSTS BY DEVELOPMENT AGREEMENT AND ORDINANCE; RECORDING; AND PROCEDURE:

- A. Following plan approval, the Developer shall proceed to bid the agreed upon project in conformance with the requirements of Title 34 of the Arizona Revised Statutes, and shall require the posting of the bid, performance, and payment bonds required for public construction. When the project is exempt from the bidding requirements of Title 34 under the provisions of ARS 34-201.G., the Developer may omit the requirement for a bid bond, but shall post or require the posting of performance and payment bonds to be approved by the Director and to be sufficient to assure the City that the planned construction will be completed. The time normally allowed for acceptance of the bid shall be extended to allow for the hearing process set forth below.
- B. Prior to receiving bids, the Developer will furnish the City copies of the request for bids, copies of the proposed contract documents, a list of the steps taken to insure compliance with the requirements of Title 34 of the Arizona Revised Statutes, and a written certification that the Developer has complied with all of the requirements of Title 34 of the Arizona Revised Statutes. The City shall review the documents and issue an opinion that the Developer has, or has not, complied; indicating any specific items of non-compliance. The project may be bid following a determination of compliance.

- C. Following bid review, either the City or the Developer proposing the project may elect to reject all of the bids, foregoing the current construction of the project.
- D. If the Developer and the City are satisfied with a proposed award, the City shall give the Notice of Intention to assess a new development fee required by ARS 9-463.05, and shall set the matter for public hearing on a council agenda for a date more than 30 days following the date the Department shall have both filed the Notice of Intention with the City Clerk and published a "Notice of Intention to Assess a Development Fee."
 - 1. The Notice of Intention shall be published in a newspaper of general circulation within the City, apprising the public of the land to be included in the Recapture District, an estimate of the cost of the proposed improvements, and an estimate of the likely range of costs that could be assessed on a per acre basis. The notice shall refer to the existence and availability of a written report to the public.
 - 2. The City shall also give written notice to the owners of record of parcels of land proposed for inclusion within the Recapture District in the manner set forth by statute and ordinance for notice of a proposed rezoning.
 - 3. The Department shall prepare and release, as requested by the public, a written report that will include documentation that explains and supports the proposed assessment of the fee.
 - 4. The Department's report shall be presented to the Council during a noticed public meeting as a regular agenda item. Approval of a fee shall require the adoption of an ordinance which shall become effective 90 days following the second reading and adoption of the ordinance.
 - 5. Following adoption, the City Clerk shall cause the ordinance to be recorded. The recorded ordinance shall contain, as exhibits, the approved and executed Recapture Agreement, and the map identifying the area and recently available assessor's parcel numbers included within the Recapture District (or Districts) to be formed.
 - 6. When the ordinance has become both effective and recorded, the adopted assessment shall be deemed to have been levied upon the individual parcels of land as specified in the ordinance, and the assessment shall become a lien upon the land to be paid in the manner set forth below.
 - a. The Recapture Agreement shall have a lifetime of 15 years from its creation, which for this purpose, shall be deemed to have occurred with the passage of the 90th day following the 2nd reading of the ordinance adopting the individual Recapture Agreement.
 - b. The sums assessed shall bear interest compounded annually at a rate to be determined and applied over the succeeding year on the date a District is formed and on subsequent anniversary dates of the 15 year term of a District, as the rate to be paid upon the then most recently issued three

month United States of America treasury bills. The rate fixed annually shall be applied for partial periods of time in the one year period following each rate determination.

7. The assessed and levied fee shall be paid to the City at the time of the issuance of a building permit for those improvements upon a parcel that require a building permit; or at the time a water meter is connected from the City's water system to the development for those improvements upon the parcel not requiring a building permit. No credit or refund of the assessed fees shall be allowed in respect of a claim for exemption or exception; or in response to a claim that a parcel will not need or will not ask for all of the water or sewer service that could have been provided to the parcel within the design criteria used to create a District.
 - a. No building permit shall be issued and no water meter shall be connected with the City's water system until all recapture fees that apply to that parcel have been paid.
 - b. The development fees and interest collected shall be accounted for separately for each district.
 - c. Sums collected which are to be repaid to a private Developer according to the terms of a Recapture Agreement shall be remitted on a quarterly basis. The City shall itemize the amounts collected by parcel number, and shall remit sums collected during the preceding quarter, less the authorized administration fee to be charged by the Finance Department.
 - d. In no event shall the sums to be repaid the Developer exceed the cost of constructing the lines specified in the Recapture Agreement for a particular Recapture District, together with the accumulation of interest authorized above.
 - e. Sums to be retained by the City in respect of recapture due the City shall be accounted for by parcel and district, and shall be earmarked to a fund or funds designated to be spent for the repair or replacement of water lines or sewer collection systems.
 - f. The Finance and Utility Departments shall charge fees to defray the costs each department will incur in administering the provisions of this Ordinance.
 - (1) The Finance Department shall charge a fee to a Developer for whom assessments are being collected and paid. The fee shall be one quarter of 1% of funds to be remitted to the Developer. The fee shall be deducted from the total shown as collected and due a Developer in each quarter a payment should be made to the Developer. The fee shall not be subject to recapture.
 - (2) The Utility Department shall charge a fee to defray the costs that will be incurred in evaluating a Developer's proposal to form a Recapture District, for conducting the study of demand and design requirements and in

determining the area(s) to be served, for preparation of the written evaluation and report, and for conducting the steps leading up to the formation of a District.

- (3) The Utility Department fee shall be computed as a percentage of the final project cost (and not merely upon the Cost of Construction Subject to Recapture) as shown:

Final Project Cost: Utility Department Fee:

\$1,000 - 25,000	7%
\$25,001 - 200,000	1%
\$200,001 - 500,000	3/4 of one %
\$500,001 - 1,000,000	1/2 of one %
\$1,000,000 and up	3/8 of one %

A \$500.00 deposit toward the fee will be paid at the time the Developer formally requests the formation of a Recapture District. A separate deposit and fee shall be payable for each Recapture District that is being formed. The balance of the fee shall be paid (or a refund of an overpayment made) when the final project costs and the Cost of Construction Subject to Recapture are known and the Notice and Certificates of Assessment are being prepared for recording. The fee due the Utilities Department shall be subject to recapture as other authorized costs of a District. The \$500.00 deposit shall be deemed earned if a Developer withdraws his request to form a District at any time after a formal request for formation is made.

(Ord. No. 1847, Enacted, 10/18/94)

SECTION 7-08-001-0008 LIEN AND ENFORCEMENT:

The assessed and levied fee and the accumulating interest shall become a lien upon the parcels of real property according to the allocation designated by the ordinance and Recapture Agreement authorized thereby, and in the specific amounts shown on the Notice and Certificates of Assessment. Failing collection of sums due under the provisions of Section 7-08-001-0007 immediately above, they may be enforced by civil suit in the Superior Court of the State of Arizona as an action on an account, or, alternatively, as the foreclosure of a mortgage or other lien upon real property, at the election of the City.

(Ord. No. 1847, Enacted, 10/18/94)

**CHAPTER 7-09
TOBACCO PRODUCTS**

SECTIONS:

<u>7-09-001-0001</u>	DEFINITIONS:
<u>7-09-001-0002</u>	PENALTIES:
<u>7-09-001-0003</u>	SEVERABILITY:
<u>7-09-001-0004</u>	EFFECTIVE DATE:

SECTION 7-09-001-0001 DEFINITIONS:

In this chapter, unless the context otherwise requires:

- A. Person means the state, the county, a political subdivision of the state, other governmental entities, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. Person also includes a trustee, receiver, an assignee or similar representative..
- B. Tobacco product means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.
- C. Vending machine means any mechanical, electrical or electronic device that, on insertion of money, tokens or any other form of payment, dispenses tobacco products.

(Ord. 2011, Added, 12/21/1999)

SECTION 7-09-001-0002 PENALTIES:

- A. No person who owns, conducts, operates or manages a business where tobacco products are sold, or are available for sale from a vending machine, nor any person who sells or offers for sale tobacco products, shall place, store or display, or cause to be placed, stored or displayed, such tobacco products or vending machine in an area or manner that is accessible to the public without employee assistance.
- B. A person is exempt from the requirements of this section if both:
 - 1. The business where tobacco products are sold prohibits entry of individuals under the age of eighteen (18) years at all times; and
 - 2. Photographic identification is required from any individual who appears to be twenty-six (26) years of age or younger prior to entering the business where tobacco products are sold.
- C. A violation of this chapter is punishable as a civil offense or as a class 3 misdemeanor. Prior to the issuance of a criminal citation, the Chief of Police or his designated agent shall serve the person to be cited with a written notice of violation if a notice of violation for the same offense, or a substantially similar offense has not been served within the previous 180 (one hundred eighty) days. A notice of violation may be served by personal delivery or via certified mail, return receipt requested. Return

of the receipt shall be prima facie evidence of service. If the violation has ceased within 14 (fourteen) days from the date of service of the notice, no criminal citation shall be issued. A person found in violation of this chapter is subject to a fine of one hundred dollars (\$100.00) for the first offense and up to five hundred dollars (\$500.00) for each subsequent offense, except that a violation may be charged as a class 2 criminal misdemeanor if the alleged violator has been responsible on three or more violations of this chapter.

(Ord. 2001-23, Amended, 10/16/2001; Ord. 2011, Added, 12/21/1999)

SECTION 7-09-001-0003 SEVERABILITY:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

(Ord. 2011, Added, 12/21/1999)

SECTION 7-09-001-0004 EFFECTIVE DATE:

The provisions of this Ordinance shall be enforceable 60 (sixty) days from the date this Ordinance becomes effective.

(Ord. 2011, Added, 12/21/1999)